

A C A S E

John Hack

Concerning

*The Buying of BISHOPS LANDS with,
the Lawfulness thereof.*

AND

*The Difference between the Contractors for sale of
those Lands, and the Corporation of Wells:*

*(Ordered, Anno. 1650. to be Reported to the then PARLIAMENT)
With the Necessity thereof, since fallen upon Dr. BURGES.*

6

August. *ad fratres in Eremito*. Ser. 52.



*Dua sunt res Conscientia & Fama. Conscientia necessaria est tibi; Fama,
proximo tuo. Qui fidens Conscientiae suae, negligit famam Cruclis est.*

*Of Burgess gett a clap by all the worst
But the fifth time of his Compurgators. A. poem*

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To the PARLIAMENT of ENGLAND.



His Nation hath great cause to bleſs the God of our lives for ever, who hath ſo gratiouſly kept off the horrid Diſtractions and Confuſions feared by moſt, upon the Death of the *Late Lord Protector* : and for that he hath alſo put it into the heart of his Preſent Highneſs (*Gentis Anglicanae nunc deliciarum*) ſo ſeaſonably to Call You together, in the antient way, as a free Parliament, for ſettling this Church and Common Wealth, in Truth, Peace, and Righteouſneſs, according to Law.

Your main Work is *Settlement*, as *Healers of the Breaches*. And our Wounds call for *Lenitives*, not *Corroſives*. Now is the time to ſhew the depth of Wiſdome, not height of Animofity ; to ſeek peace and purſue it, not to be for warr : and, to *let your moderation be known to all men*.

You cannot be ignorant that there ever have been, and will be many Quack-Salving ſpirits, who fancying to themſelves new Models of Government for ſiniſter ends, think You to be very weak if You differ from them. Such will never be for any ſettlement at all ; but, run up and down both City and Country, like ſo many *Ignes fatui*, to inveagle well-meaning men (ignorant of their devices) to ſubſcribe their Factious Petitions. Wherein, under pretence of the Publick, they deſigne to make You, firſt, to hold the ſtirrup ; and then to be their footſtool, to get themſelves into the ſaddle.

Little do thoſe turbulent Polypragmatiſts *know of what ſpirit they are* : much leſs do they conſider that *Ignatius Loyola* ever lies at the bottome of all thoſe Diviſions which their ſeditious zeal would kindle among You. But I truſt Your Wiſdome will timely ſee through ſuch ſelf-ended Projects, and reſolutely reject ſuch deſtructive Endeavours to Divide You, that they might reign.

If Your Counſels miſcarry : and, in ſtead of quenching old fires, new flames break out ; Woe, woe to this Nation. For that, in all likelihood, (unleſs men will tempt God to work Miracles as the Devil did Chriſt, to *command Bread out of Stones*) this will devour Us. And then, who ſhall ſave You ? *I beſeech You (therefore) to mark thoſe that cauſe Diviſions and offences, and avoid them. For they that are*

such, serve not the Lord Jesus Christ, but their own belly; and, by good words, and fair speeches, deceive the hearts of the simple.

Pardon this boldness in him that hath, by the space of 40 years, been a diligent Observer of, and a faithfull servant to Parliaments, so farr as they seriously sought the Publick Good; and so resolveth to be to You. Upon which account, he humbly maketh this Address: The occasion, this.

Many, and loud have been the Clamors against the late long Parliament, for *seising*, and *selling* the Lands of *Bishops*, and other *Cathedral* men. For this, They, their Agents, and all purchasers are proclaimed guilty of that odious sin of *Sacrilege*; and none more than this Your servant. Hereupon, he hath often been pressed to Vindicate the Parliament, and thereby to right himself, who hath long felt the scourge of tongues, and been made to drink the gaul of Pens, for purchasing some of those *Lands*; and, for his just endeavours to possess what he hath paid for, by some most unjustly detained from him, in the judgments of the honourable, first, the *Committee of Parliament*; and after, the *Commissioners, for Removing Obstructions in the Sale of those Lands*. Which last (being by special Act of Parliament impoued thereunto) have *Heard and Determined* the same: but, to no purpose, if Contempt may prevail.

Both these, are here faithfully spread before You; not by way of Complaint, but of Account: You being the most proper Patrons of the *Vindication* of a *Parliament*; and best able to judge both of their *frauds* that have abused the State; and, of their *Contumacy* who being, upon a full Hearing, Ordered to Reconvey what they have fraudulently gotten into their Conveyance, refuse to obey any Orders whatsoever. And threaten to bring all before You; not as hoping to get any Orders made against them reversed; but, as promising to themselves a lodging of the Cause once more in a *Committee*, thereby to prevent all further proceedings against them elsewhere.

Now, the Good Lord make You all, *men that have understanding of the times, to know what Israel ought to do*: And, so temper Your spirits, and govern Your Councils, that You may be such a Blessing to this Nation, as that the Children yet Unborn may call You *Blessed*. This is, and shall be the daily prayer of him, that (without art or private ends) is,

Feb. 9. 1658—9.

Your most humble and real servant

Cornelius Burges.



THE FIRST PART,

Declaring

The *Occasion* of Dr. *Cornelius Burges* his
buying of *Bishops Lands*.

With

The *Lawfulness* thereof.



He barbarous Massacre of English Protestants in *Ireland*, by the Bloody-Popish Rebels of that Nation, in the year 1641. moved the Parliament then sitting here, to pass an *Act*, both for a *Contribution* for relief of the remaining persecuted Brethren there, who (forced to leave all they had in *Ireland*) fled into *England* and *Wales* for shelter; and for a *Voluntary Loan*, for bringing their Persecutors to just punishment. Upon this, Dr. *Burges* (after his duty performed in the former) voluntarily lent 300 *l.* to that last Service, which he accordingly paid in. But, that *Loan* not sufficing, another *Act* passed the same year, for *Subscriptions* of moneys to be adventured for the Lands of those Rebels upon certain *Propositions*, for more speedy subduing of them. To this Dr. *Burges* subscribed, and accordingly paid in 700 *l.* more.

The next year after, that Unhappy Difference between the late King and his Parliament, brake out also. And, the Parliament *Declaring* that the King (seduced by evil Counsel) had deserted them, raised an Army against them, and erected his *Standard* of War at *Nottingham*, whereby he had put both *Parliament* and *Kingdom* out of his Protection; the said Parliament published the Necessity of an *Advance* of Money,

B

Horses,

Horses and Plate, by a voluntary *Loan*, upon the *Publike Faith*, for defence of the King and Parliament, and for bringing to condign Punishment those evil Counsellours about the King, which had engaged him in that destructive Design. Dr. *Burges* taking notice of this Declaration, out of the integrity of his heart to the King and Parliament, lent several sums of Money, for defence of both; being resolved to have suffered any death, rather than to have lent one peny, or to have spoken one word in that Cause, upon any other account: as he after expressly professed and protested to a Committee of that Parliament sitting to examine him (among others) touching a Printed *Vindication* of the Ministers in and about *London*, that had been unjustly charged with having some hand in promoting the late Kings Death.

And whereas by that dismal Division, sharp and bitter Wars had been, for some years waged, and vast sums of Money (raised on the *Publike Faith*) exhausted, the Parliament held themselves bound in honour and justice to pay those debts, contracted by that War, mainly promoted against the Parliament and Kingdom (if not by, yet) in favour of the *Arch-bishops and Bishops* (one of them having called the fore-runner of it, *Bellum Episcopale*, or the Bishops War:) therefore the Parliament passed an Ordinance, *Octob. 9. 1646.* for an absolute taking away, and abolishing the Name, Title, Dignity, and Office of *Arch-bishops and Bishops*, who (having before incurred a *Pramunire*) were thenceforth utterly disabled to hold or exercise the place or function of *Arch-bishops* or *Bishops* within *England* or *Wales*. And their Lands, and Possessions held in right of their Bishopricks (being by that abolition escheted) were vested in certain Trustees; *subject to such Trusts as both Houses of Parliament should appoint and declare.*

Which Parliament, by another Ordinance, of *Novemb. 16. 1646.* appointed and ordained all those Lands and Revenues to be sold, for raising of 200000*l.* for the then present use of the State. In which Ordinance they invited all that had before lent Money, Horses, Plate, &c. for the Service of the King and Parliament, upon the *Publike Faith*, to double the same: and so, to take the whole so doubled, out of *Bishops Lands*, either in Money or Lands. For which purpose, they engaged the Grand Excise, and *Bishops Lands*: not without intimation, that such as doubled not, must expect no other security for what they had lent, but the then-despised *Publike Faith*; nor to be paid, till all *Doublers* were satisfied.

Dr. *Burges* seeing this necessity of doubling, to prevent hazzarding of all, doubled all his Bills, which (upon doubling) amounted to 3400*l.* beside his *Loan* and adventures for *Ireland*. All which, he endeavoured to receive back in Money, but was therein hindered by such as laboured all they could to engage him in the taking of it out in *Bishops Lands*. He therefore, having a wife, and ten children to provide for, that must all be undone, if that money miscarryed; and finding the Divisions of Parties that now managed the *Publike*, and pursued several Interests, to be

be daily encreased, and more heightened, and himself ill requited for all his faithful Service, was put upon this strait, to take out his Moneys in *Bishops Lands*. This was the only reason of his purchasing of *Bishops Lands*.

Since which purchase, it hath pleased the Wise God to exercise him with many sharpe afflictions; among which the scourge of tongues hath not been least. And he hath fallen under so much prejudice with such as never heard, or scarce ever saw him, that not only sundry Suites at Law have been commenced against him, and Verdicts given for his Adversaries, even when their own Witnesses and Counsel yeelded the Cause; but his Ministry also, (although acknowledged by his very Enemies to be useful) hath been of small use. Most of which hath befallen him by sundry false aspersions of virulent foul-mouthed Mercenaries, that stick not to transgress for a good meal, albeit he hath (as it is very well known) deserved far better at their hands who have so traduced him.

Nor is it unusual with Satan and his Instruments, to cast most dirt in the faces of such as oppose his Kingdom, that he may fully and disparage their persons by whose doctrine he suffereth. For this cause, that eminent Light and glorious Martyr Cyprian thus wrote to *Antoninns*, touching *Cornelius* (a good Bishop of *Rome*, and an holy man) greatly defamed by *Novatianus* and his fellow Schismatics and Heretics; (a) *Quod quadam de illo inhonesta & maligna jactantur, nolo mireris; cum scias hoc esse semper opus Diaboli, ut servos Dei mendacio laceret, & opinionibus falsis gloriosum nomen infamet, ut qui conscientia sua Luce clarescunt, in alienis rumoribus sordidentur.* "I would not have thee strange at it, that sundry foul and malignant reports are thrown abroad touching him; seeing thou knowest this to be ever the Devils work, by lying to revile and make odious the glorious name of the servants of God; that they who by the light and testimony of their own consciences appear brightest, may by false rumors be rendred most sordid and vile.

^a Epist. ad Antonin.

Hence many, not knowing, nor caring to know the true state of the Doctors Case and Cause, but resolved (not for want of ignorance, envie or malice) to blast him; are ready to hunt after all the base and false reports they can against him; and (as *Jeremiah's* enemies served him (b) to encourage all to speak the worst they can of him, [Report, say they, and we will report it,] how false soever. Yea, so far have they proceeded in this hellish lawlessness of their tongues (c), as to impute all the troubles that have befallen him, to the just hand of God upon him for buying of *Bishops Lands*, pronouncing him guilty of that odious sin of *Sacrilege* for so doing.

^b Jer. 20. 10.

^c Jam 3. 6.

Now albeit he resolve to suffer much, rather than to take notice of every false report; and to wait Gods time for the clearing up of his innocencie in other matters; yet this is of so foul a nature, reflecting so deeply upon not only his person, but the very Ministry it self, that there is a necessity of some Vindication, and of endeavouring the

satisfaction, if not of all, yet of such as are rational and sober men, by a brief Discourse of the nature of that sin of *Sacrilege*, properly so called; and of the *Lawfulness* of buying *Bishops Lands*.

Of *Sacrilege*. There are, who deny that there is, or can be any such thing as *Sacrilege*, now under the Gospel: they being confident, that nothing is now due by Divine Right, to Ministers of the Gospel. But this being (as shall after appear) a palpable Error, deserves to be with contempt exploded, rather then seriously confuted. Others, in another Extream stretch *Sacrilege* so far, as to involve every man in that sin, that deviateth from their Constitutions and Laws, or offendeth in any thing which they please to call *Sacred*, or *Holy*; although never made such by Gods Ordination.

Thus the Roman Emperors stigmatize the Violation of their *Civil Laws*, (d) and fasten that Crime on all who wilfully neglect, or knowingly break their Commands. (e) The *Canonists* extend it to the alienating, invading, wasting, stealing, purloining, or perverting of any thing, and to the abusing of any Person, Place, or Thing once dedicated and by them called *Holy*, although without Word or Warrant from God, or the Municipal Laws of Men: and hereupon they require restitution, and full satisfaction, upon pain of Excommunication. (f)

Upon this sandy Foundation, most of the *School-Men*, *Summists*, and *Casuists*, build their Discourses of *Sacrilege*; (g) and (according to the Interest of their Party) bring within the compass of that sin, the prodig, Aquin. 2. 2. q. 99. ar. 1. Alex. 1. c. 13. Nulli licet. the striking of a Priest, Deacon, Nun, or other Votary, upon any occasion whatsoever: The defiling of them by Uncleanness, Hosien. l. 5. c. 6. the renouncing of their Orders, Vows, or Votary States: The abusing and prophaning of Churches, Chappels, Oratories, Church-Yards, Lindw. l. 1. c. 1. C. and other consecrated places, by buying, selling, stealing, even ought Ignor. Sacerd. verbo *Sacrileg*. that is common; the committing of Whoredome, acting of any Civil Affairs, &c. in them; the polluting of Sacraments, by unworthy recantiloq. Sect. ceiving, or not adoring of their Host; the abusing, or denying of any of those additional Sacraments, which are but their own Fancies, is, with them *Sacrilege*. The alienating, converting to common Use, or otherwise detaining of any Lands, Goods, Bequests, Vestments, Utensils of Churches, Altars, &c. devoted and given by Men upon any account whatsoever, to Churches, or Religious Houses (as they call them) although never so superstitiously, fraudulently and superfluously, or any other way unwarrantably conferred, and which God never required at their hands, is all, by them, pronounced and declared to be *Sacrilege*. In a word, what ever crosseth, prejudiceth, disgraceth or hindreth the Profit of the Pope, or any of his Clergy, or Creatures, that bear but the Name of the Church, or ought pertaining to it, is proclaimed and thundered against, as *Sacrilege*, which no satisfaction can expiate; unless it be to the great advantage and gain of those that call themselves the *Church*.

That many (although not all) of the before-named particulars are great sins,

fin, is willingly granted. But that they are all *Sacriledge*, is denied: For, if we consider the *Etyymology* of the Word, or the *proper Nature* of the Thing, in holy Scripture, we shall soon discover the unsoundness of that Assertion.

As for the *Etymon* of the Word, whether *ἱεροπλάγος*, or *Sacrilegium*, it denotes the lurching, or stealing of somewhat that is sacred. Hence *Civilians* (b) term him *Sacrilegus*, qui publica Sacra compilarit. So *Basil* (i) calls an Hypocrite, *ἱεροπλάγος*, a *Sacrilegious* Person, because he robs God of his heart, which, at God's Command, (k) he pretendeth to give unto him. The Latine word *Sacrilegium*, is a Compound of *Sacrum* & *Legere*: and he is *Sacrilegious* qui Sacra legit, id est, furatur; (l) who gathereth, that is, stealeth sacred things. And here, it may not unbecom men pretending to School-Learning, and to Antiquity, to take with them that of the Learned and Acute *Isidore* of *Sivill*, (m) touching the difference between *Sacrum*, *Religiosum*, & *Sanctum*. That (saith he) is *Sacred*, which is Gods due; that, *Religious*, which pertains to Religious Men; and that, *Holy*, which is devoted or dedicated by Men. To which he adds, *Sacrum verò, & Sanctum est: Sanctum verò, non continet Sacrum est*. Whatever is *Sacred*, is also *Holy*: but all that is *Holy*, is not *Sacred*. This gives light into the nature of the thing or sin of *Sacriledge*, according to the use of the Word in holy Writ, and the Language of the best Antiquity.

For, all *Sacriledge* must needs refer to somewhat properly *sacred*, in sense of Scripture. Hence *Hales*, *Aquinas*, * and other ancient School-men, describe *Sacriledge* to be *rei sacra violatio*, the violation of somewhat that is sacred: That is, Which God hath ordained to be set apart for his Service and Worship. Of this *Solomon*, or rather, God himself by *Solomon*; (n) It is a snare to the man that devoureth that thing which is holy; and after the Vow to inquire (or, to recal it.) VVhere *Tremellius* renders שָׁקֵץ by *Sacrum*. And *Junius* in his Annotations keeps to the same word; understanding thereby (as the Text intends it) the things of God, or His just due.

Great Use is made by a great Zealot (o) against *Sacriledge*, of some sharp passages of Mr. *Cartwright*, in his Commentary upon that of *Prov.* 20. 25. who is said to have been forced, by evidence of truth, to confess, That now, in the time of the Gospel, whatsoever is either established by Law, or conferred by mans Liberality for the Uses of Gods service, is all to be accounted sacred, or holy: And for this cause both the taking away of the whole, or the diminishing of any part of such holy things, is *Sacriledge*, condemned in *Deut.* 23. 21, 22, 23. And it is true, that Mr. *Cartwright* (with too much confidence, following, in this point, the Popish Doctors) in his first expressions, speaks to that effect. But yet, not as if it were in mans power, by a voluntary Vow or Dedication, to make a thing sacred, whether God hath given all the Rules or Directions about it, (as he did in all the Voluntary Offerings, in the time of the *Levitical Law*) or not. For he never meant it of Gifts made of mens own accord, wherein God had not prescribed all the Rules and Laws touching both *Matter* and *Manner* of their voluntary Gifts unto God. Where-

Wherefore, how heavily soever he falleth upon the sin of *Sacriledge*, yet he concludeth all with this Explication and Limitation. *Quod tamen non ita accipi debet, ac si vota nulla cujuscunq; generis rescindenda sint, cum hac de legitimis Votis & ex prescripto Verbi factis, sint intelligenda.* Which Expression (of mine, saith he) is not so to be taken, as if no Vows of what kinde soever, were to be rescinded or recalled; Seeing these things are to be understood of lawful Vows made by the prescript of the VVord.

That place, in *Deut. 23.* although it leave a man free, in a *Free-Will-Offering*; yet it ties him in case of a Vow made: But withal, he is to perform his Vow according to the prescript of God. VVhatsoever is vowed or devoted to God, for a divine use, or for his service and worship, is *Worship*. But whatever is so offered, if not prescribed by God, is *Will-worship*, which he abhorreth. (p) They might not offer what they listed; no, nor so much as they pleased, even of what he had prescribed: not *thousands of Rams*, or *ten thousand rivers of Oyl*, (q) (although *Elies* sons, and *Papalins* too, would have found room enough for all;) but, what and how many *Rams*, and how much *Oyl*, God, in his Law, had appointed. This is so clear in the Levitical Law, that *he that runs may read it.*

If therefore the devoting of *Fræe-VVill-Offerings* could not then legitimate and make them *sacred*, unless God himself had given the rule therein: how can it be seriously affirmed, That any thing given by men under the Gospel can be *sacred*, unless it be such as they have received VVarrant and Rules from God, for the giving of it? And, if not *sacred*, how can it be *Sacriledge* to alien it to common Uses? VVill God own any thing as *Holy*, for which Himself hath not given Order?

More Orthodox and clear is the Exposition (r) of that holy (and now blessed Saint in heaven) Mr. John Dod: *To devour that which is holy, is (saith he) to pervert those things which are by God's Ordinance appointed for His service, from the right Use of them to a mans own private gain and commodity.* Thus the learned *Danaus* gives almost the same description of things properly called *Sacred*, which to purloyn, or alienate, makes guilty of *Sacriledge*. *Res Divina appellantur quæ sunt ad sacrum Dei cultum destinata, quasve sibi interdicto prolato Dominus reservavit, & in usu commercioq; hominum esse vetat. Quarum rerum furtum, dicitur Sacrilegium.* They are termed divine things, which are destinated to the sacred worship of God, or which by some interdict or prohibition of God, he hath reserved for Himself, and forbidden to be employed for the use or commerce of men. The stealing of which things is called *Sacriledge*.

So then, *Sacriledge* (according to Scripture) is the robbing of God, by alienating, detaining, purloining or perverting that which is Gods own, by Divine Right, and thereupon due to the Ministers of the Gospel; whether the things be set apart by expresse Command, or voluntarily given by men, by vertue of some special Warrant and Direction from God.

That *Sacriledge* is a robbing of God, we have His own Word for it both in the Old Testament (s) and in the New (t). It is opposed to offering to an Idol; therefore it must needs be a taking from God. And that this is

com-

p Mat. 15. 9.

q Mic. 6. 7.

r IsPro. 20. 25.

Sacriledge de-
scribed.

s Mal. 1. 8.

t Rom. 2. 22.

committed by *aliening, detaining, purloining or perverting* of things due to Ministers by Divine Right, is clear by that of the same Apostle; (*u*) *Thou shalt not muzzle the mouth of the Ox, &c.* applied to prove the Divine Right which Gospel-Ministers have to maintenance from those to whom they preach. Of which, *Bishops Lands* were never any part, being no where commanded or directed by God. So that the *buying* of them now, cannot be *Sacriledge*.

It hath been indeed confidently affirmed, that Dr. *Burges* himself, openly acknowledged at the Bar of the House of Commons in Parliament, in (*w*) his Answer to Dr. *Hackett's* speech there made, in the names of all the *May 11. Deans and Chapters in England* (for preventing the alienations of their *1641. Lands and Revenues*) that *To take away those things from the Church, was Sacriledge*. But this is an unjust Aspersions: Dr. *Burges* did indeed declare a concurrence with Dr. *Hackett*, in admitting that the alienating from the Church any thing settled upon it by *Divine Right* is *Sacriledge*: but, nothing else. It was far from him to include all that Cathedral men enjoyed, to be theirs by Divine Right, or to admit that it was *Sacriledge* to alien any thing that was theirs not by Divine Right; as that flashy jeering Author of the late published *History of the Church* (upon hearsay onely, and out of Resolution, *calumniari fortiter*) hath falsely reported him.

He intended no more in that speech, then what he had long before (*x*) published, in a Preface to a little Tract of *Personal Tythes*: where he useth these words: "To that Tenet (*viz.* that Tythes are due *jure Divino*) I subscribe Affirmatively, *ex animo*. But, with Cautions. 1. Tythes " (I say not ought else) are due by Divine Right to Ministers of the " Gospel. 2. I never was, nor (I think) ever shall be of that Opinion, " that all Tythes within such or such a Circuit of ground, now by positive " Law made but one Parish, are absolutely and without all Exception, due " by Divine Right, to the Person of one single Incumbent there: But to the " Church *, in whose name he receiveth them.

* Or rather unto Christ her Lord; and thereby to her.

Had he granted more, he had deviated from Truth: And should it be proved by an hundred Witnesses, that he fully concurred with Dr. *Hackett* in that Point, this could not make *Sacriledge* of larger extent then what it is indeed. What he then spake was on the sudden, not having an hours time to ponder his Expressions. That is to be taken for his Judgement, which upon serious study, he had published so many years before. And if any such thing as is charged upon him, fell from him in the House of Commons, he doth renounce it as an Error.

If any man shall upon this occasion, and for more full clearing of this Point, demand some further Scripture Grounds, to make it out, that neither the late *selling* nor *buying* of *Bishops Lands* is *Sacriledge*; let him without prejudice or passion, ponder these two things. First, *That Tythes are the proper maintenance set out by God for the Ministers of the Gospel, and cannot be alienated without Sacriledge*. 2. *That there is no Warrant in* *Scrip-*

A Dignification for further clearing of what is here undertaken.

Scripture for the giving of Lands to Bishops, nor argument to prove God's acceptance of them, as holy to the Lord. And therefore it cannot be Sacriledge now to alien them, or purchase them from the Church.

The first thing undertaken is this, *That all yearly tythes of the Ground, Cattle, Fruits, and of all things else, are still due by Divine Right unto Christ, and by him are given to his Servants in the Ministry of the Gospel, and may not be alienated.*

For proof hereof, consider these six Particulars:

1.
Tythes are
True Divins.

1. Tythes are called by God himself, *his Inheritance*, Deut. 18.1. where he gave to the Levites, two things, the Offerings and Tythes, for their maintenance. *They shall eat the Offerings of the Lord made by fire, and his Inheritance*; that is, the Tythes. For these only were *his Inheritance*, which is there distinguished from the Offerings made by fire. So he declared himself unto the Levites, Num. 18. 24. *When ye take of the children of Israel the Tythes, which I have given you from them for your Inheritance.* He that gives them as their Inheritance, must first have a propriety himself in them as *his own Inheritance*. Hence he chargeth with sacriledge such as detained either of these from the Priests and Levites, as robbing of himself. *Ye have robbed me in Tythes and Offerings* (y).

y Mal 3.8.

2. Heb 7.9.

a Vers. 10.

b Vers. 4.

2. Nor was this a new Title, raised only for maintainance of the Levites, with reference to the Levitical Service only; But Tythes were Gods due long before, and paid as God appointed, where ever he set up a Priest and publike Priesthood, Evangelical as well as Legal. In so much as *Levi himself*, before he was born, is said to have paid Tythes in *Abraham* (2). For, *he was yet in the loyns of his Father when Melchisedeck met him* (a). *To whom the Patriarch Abraham gave the tenth of the very Spoyle he had taken in War* (b). *Melchisedeck* was (no Legal, but Evangelical) Priest of the High God, at least in type. For Christ himself is a Priest for ever of the same Order, and so hath the same right to Tythes, that *Melchisedeck* had. Of which, more by and by.

3. If we consult Gospel-times, it will appear that albeit Gospel Ministers were not in actual Possession of Tythes, at the first preaching of the Gospel, nor during the Ten grand Persecutions, no more than were the Levites in the Wilderness: yet Gods right was still the same, and he by Ordinance setled them upon the Ministers of Christ, even from the first calling them to preach. For, as of old, *They that ministred about holy things, lived of the things of the Temple; and they which waited at the Altar, were partakers with the Altar: even so hath the Lord ORDERED, that they which preach the Gospel should live of the Gospel*, 1 Cor. 9. 13, 14.

Hence the same Apostle who wrote this to the Corinthians, gives it in charge to the Galatians, (and in them, to all) that had received the Gospel, that every one that is taught in the Word, see that he communicate unto him that teacheth, in all good things, Gal. 6.6. At that time, Christs proprie-

ty in Tythes, could not be available to Ministers, there being no Laws among them, to recover them. Therefore He requires them for that present to lay out such maintenance as they could well raise; yet so, as they should communicate *in omnibus*, in, or of all their goods, (as some not improperly translate the Original :) as the Israelites did to the Levites attending the Ark, in the *Wilderness*.

4. Neither that last mentioned Ordinance of God, nor the Charge given to the *Galatians*, could extend to any Offerings made by Fire, or of any other Levitical Profits, all which ceased, when Christ (our High Priest) had once offered Himself up to God, and thereby accomplished all which those Offerings typified, and changed the Priest-hood. Therefore it must be meant of Maintenance by Tythes, so soon at least, as the Gospel should be received by their Covernours, and Laws could be made for putting Gods Ordinance in Execution for that standing Maintenance by Tythes; not in *Levi's* right, as Successors to him, but as Servants to Christ.

5. That this was the Apostles meaning, is evident, because Tythes being first paid (long before *Levi*) to *Melchisedech*, a Priest of Christs own Order; and, *Abraham* the Father of the Faithful, (and in him *Levi*) paid Tythes unto *Melchisedech*, as the fore-runner of Christ, in respect of Priesthood; it necessarily followeth, that Tythes are still due to Christ, in whose name and right, his Servants the Ministers ought to take, and enjoy them. For the Apostle, upon this very ground, proves Christ to be a Priest after the Order of *Melchisedech*, not onely because he liveth, but because also he receiveth tythes. Here, saith he, (meaning in *Judea*, during *Aarons* Priesthood) men that die receive tythes: but there (that is, where *Melchisedech's* Priesthood is exercised) He receiveth them, of whom it is witnessed that he liveth (c). Which he there applieth to Christ, and to no other.

6. Therefore all yearly tythes (by some called (d) the first tythes) are the proper standing Maintenance set out by God, for Ministers of the Gospel, in all settled and well-governed Christian Commonwealths, which in obedience to God make Laws for the due payment of them: for that they still belong to Christ as His inheritance and portion, payable to his Ministers, by way of homage unto him, as his right, from all his people. And therefore to alien or employ them to any other use (under any pretence whatsoever) is plain Sacrilege, not onely in those who so alien them, but in them also who so possess and employ them, if they be not Ministers of Christ; or being Ministers, preach not the Gospel, or procure not others, (if themselves be disabled by age or sickness) to do it: it being no other but a robbing of Christ, of what is his proper due, and by God made holy to himself.

The Second Point here undertaken, is, That there is no Warrant in Scripture for the giving of Land to Bishops, nor Argument to prove Gods acceptance of them as holy to the Lord, and that it can be no Sacrilege now to alien them.

This Point hath two branches to be prosecuted distinctly.

1. *That there is no Warrant in Scripture, for the giving of Lands to Bishops; nor Argument to prove Christ's acceptance of them, as holy to the Lord, Which appeareth thus.*

1. There is no word in the New-Testament that requireth, or countenanceth such endowments.

* 1 Cor. 9.

The Ordinance for Ministers Maintenance, recorded by St. Paul* extends no further then to what was allowed to *Levites*, while they continued: nor, to all that neither. *Offerings made by Fire*, are by Christ extinct. It reacheth indeed to *all good things*: that is, to Goods, (not Lands) in the judgement of all Expositors, ancient and modern, Popish as well as Protestant. It extends therefore to Tythes onely, as the constant standing Livelyhood of *Ministers of the New Testament*, where Tythes may be had; and, in the mean time, to such other competent allowance, in Goods or Money, as could be raised for them.

There are some Wyre-drawn Arguments (or rather futilous Fancies) for Proof of the extent of God's Ordinance, for Evangelical Ministers Maintenance, even unto Lands also, produced by the confident Author of a printed *Answer to a Letter said to be written at Oxford, Anno 1647.* superscribed to Dr. Samuel Turner, touching the change of Church Government by Bishops, and the alienating of their Lands. Which the said Author undertakes to prove to be impossible to be done with a good Conscience. His Arguments are taken from sundry Scriptures, viz. from *Mat. 25.* [*I was hungry, and ye fed me, &c.*] as also from *Mat. 10. 40.* [*He that receiveth you, receiveth me.*] and from *Act. 5.* [touching *Ananias and Sapphira*] and from *Rom. 2. 22.* [*Committest thou Sacriledge?*] But his Arguments from those Scriptures to prove what he undertakes, are so jejune and frigid, that they deserve no answer. Howbeit, lest he should be wise in his own conceit, let him take what followeth. That Author undertakes to prove the alienating of Church-Lands of Bishops to be Sacriledge. To make way hereunto, he premiseth these things; 1. "That God accepts of things given him, and hath a Propriety in them, as well in the New as in the Old Testament. 2. That God gets this Propriety as well by acceptance of voluntary gifts, as by his command for the giving of them, &c. Now unless he make it out, that Gods Acceptation and Propriety, (as he phraseth it) reach to Church Lands of Bishops, his labour is in vain: and his Arguments from those Texts, are no other then a gross abusing of the Scriptures, like that of those unlearned and unstable ones, who wrest them to their own destruction (e).

e 2 Pet. 3. 16.

His first Text out of *Mat. 25.* neither doth nor can extend to Christs Acceptation of, or Propriety in Church-Lands, voluntarily given to Bishops for their Maintenance. It speaks onely of Alms, whereby the Hungry, Naked, Sick or Persecuted Members of Christ are Christianly relieved: Not the accepting Lands for Bishops, (such especially, as that Author declareth for) who Lord it over God's Heritage, by appropriating the sole power of Ordination, and Jurisdiction to themselves;

two of the most senseless Dreams that can be fathered upon those Scriptures, which the same Authour abuseth * to that purpose. Nor is there the least hint of Christs *Acceptation of Lands*, for any Uses whatsoever; but onely of present supplies of Food, Rayment, and other Necessaries, suitable to the instant wants of his distressed Members.

But, saith he; *Doth Christ thus accept of meat, and cloathing; and not of those Endowments that bring these to perpetuity? Will he take meat, and refuse Revenues?* and he concludes it of both: adding, that it were a strange thing, Christ should take those Gifts so kindly, for provisions of all called *His*, and that onely *His Apostles and His seventy Disciples* should be excepted from sharing therein.

This would not seem strange to him, were he not a stranger to the Scriptures. He might by further search, know, That though Christ accepted of Gifts for the Poor, yet when they were more then there was present use of, they were abused, even under Christs own Nose, by that thief *Judas, who bore the Bag (f)*. And would it were a slander to say, That most of those that since have been trusted with that *Bag*, and with the large Revenues given to that Use, are too near of Kin to that first Treasurer.

Under the Old Testament God made many provisions for the Poor; but none in Land it self: And how much the Poor get by the gift of Lands (especially after one Age or two) under the Gospel, is too obvious and lamentable to behold. That Author therefore begs the Question by way of a confident Interrogation [*Will He take Meats, and refuse Revenues?*] which should the Authour be kept from, till he prove it, he might, perhaps, starve to Death.

But as for Christs accepting of and having a *Propriety* in Lands given to the Church, for Bishops, &c. he is out, *to the Calo*, as far as the East is from the West. That Christ took care for the Poor, is evident; and that his care was no less for his Ministers, is no less a Truth. For he that of old made that a Law, *Thou shalt not muzzle the mouth of the Ox, that treadeth out the Corn (g)*; did he it as taking care (onely or chiefly) for Oxen? nay, *Deut. 25. 4.* for our sakes no doubt is it written; yea, altogether for our sakes, saith St. Paul (h) in behalf of all Ministers that labour in the Word and Doctrine. *1 Cor. 9. 10.* Howbeit, from hence to make it good, that that Text in *Mat. 25.* extendeth or is extendable to Christs acceptance of the gift of Lands for Himself, or for His Apostles, or His seventy Disciples, or any of their Successors, will require time till the thirtieth day of February, or the Greek Kalends come about.

As for Christ himself, (although he were of the Blood-Royal, of the Lineage of David, both by his Mothers side, and by his supposed Fathers too) (i) He professeth that very Foxes and Birds were better provided then He; for the one had Holes, the other Nests; but he had not so much as a Room or Pillow on which He might lay His Head (k): And when He sent out the Twelve, His charge was (l), *Provide neither Gold, nor Silver, nor Brass in your Purses, nor Scrip for your journey, neither two Coats, &c.* Not, that He meant to starve them: for He took care that provision

m Luk 22.35.
n Mat. 10.10.

tion should be made for their present supply, by those to whom they preached, so as they wanted nothing (m) : and that upon this account, *That the labourer is worthy of his hire* (n). May it not then, upon better grounds, be retorted, *Christ would accept of no Lands or House for Himself, and forbade even Gold and Silver to His Apostles, therefore he will not accept, own, or hold the Lands of Bishops, especially of such as he never owned?* Not that it is unlawful now, for Ministers that preach the Gospel, to receive allowance, but that those words of our Lord, in *Mat. 25.* had no relation thereunto.

o An. 255.
p An. 1459.

And albeit (if we give credit to *Platina*, *Petrus de Natalibus*, and others) Pope *Urban 1.* about the year of Christ 233. by an Epistle *Decretals*, ordained, That the Church might enjoy *prædia, quorum provenibus alendos statuit Ecclesie Ministros*, &c. Possessions, out of which Profits, he appointing the Ministers of the Church to be maintained; and forbad the alienating thereof, under pain of Excommunication: which Pope *Lucius 1.* afterwards (o) seconded; and *Pius 2.* long after him (p) confirmed as a Law. Yet he that shall trace the best Ecclesiastical Histories, shall finde, that the Church was endowed with no Lands, even in the greatest advancement of Bishops by *Constantine the Great*. It is true, that in the supposititious *Donation of Constantine*, it is said, That upon the Churches which he erected to the honour of the blessed Apostles *Peter* and *Paul*, *possessionum prædia contulit*, he conferred the spoils of Possessions (gotten by War :) Yet this, in the Language of those times, and of the *Civil Law*, did not extend to the Lands themselves, but onely to the Profits of them.

Before *Constantine*, Bishops could enjoy no Lands : for even in the beginning of his reign, the Bishop of *Rome* himself, *Sylvester*, and his Associates in the Ministry, were fain to hide for safety of their Lives, in the Hill *Saracte*, about twenty miles distant from *Rome*, since called, *Monte di Sylvestro*; as by that very *Donation* appeareth. Nor did that Emperour endow the Bishops with Lands, but onely gave them large Allowances out of Lands : for which a voice is said to be uttered from Heaven, *Hodie seminatur Virus in Ecclesia*.

But be it as the *Papalins*, and this Author perhaps, would have it; that such Decrees were made by *Urban 1.* *Lucius 1.* and others, for enjoying of Lands; yet the very best Original Title of Bishops to Church-Lands, is not from Christ himself, by vertue of what he spake *Mat. 25.* but onely from some Popes of *Rome*, His pretended *Vicars*.

Touching the second Text, *Mat. 10.40.* it is so clearly meant of the Apostles Ministry (not Bishops Lands) and of their entertainment for present supply of Necessaries (not for Pomp and State, and of giving them Gold and Silver enough to maintain it) that it may well be wondered (even by a wise man) with what forehead that Authour could apply that Scripture to Christs accepting and owning the Gifts of Bishops Lands, which in those times, were not so much as dream'd of by any Bishop or Apostle of Christs Ordination.

All which that Text can imply, is but this, That he that receiveth His Apostle

Apostles, receiveth Himself, and His Father also; by vertue whereof, He and His Father will effectually move the hearts of the Receivers, to see that His Apostles shall want nothing, while they are employed in preaching to them. Which what it can conduce to prove Christs acceptant of Lands for a perpetual Maintenance (which by no Story appeareth to be enjoyed) of His Apostles, must be left onely to Impudence to make forth.

Nor was *Ananias* and his wife smitten, or so much as questioned, *Act. 5.* for selling of Lands devoted to God and the Church; but for their dissembling, and lying unto God. For whereas in the first receiving of the Gospel by the preaching of *Peter*, many thousands were likely upon that very account (at that time) to starve, being hated and persecuted for believing in Christ; such as were rich sold their Estates, and put all into one common Banck or Purse, for Relief of the whole Community of Believers. *Ananias* and *Sapphira* pretended to do the like; they sold their Lands, yet brought but part of the price to the Apostles, and pretended, that what they so brought was the whole. And being questioned by *Peter*, whether this were *All*, they sold their Lands for; they both with impudence, stood to their first Lye; and, for that, were condemned, and smitten with death: not for *Sacriledge* by selling Lands; but for *Hypocrisie*, in making the world believe more then was true; and by defrauding the Church of part of that which he pretended to dedicate unto God, for the Relief of (not Ministers, but) the poor Brethren, that then held all things in Common: There being then no Lands or Revenues sold, or set forth for Ministers, nor did these Hypocrites pretend unto it. Howbeit, in as much as they pretended to give all, and yet kept back part of the price, which they professed to devote to that publick Service of God and his People, they are not to be excused of Sacriledge; Not because they voluntarily devoted it, without a Command (for Christ himself, in such cases of Extremity had commanded the imparting of what might be spared (q);) but because they had defrauded the Church, and abused the world, the Apostles, and God himself, of what they had with great shew of piety and charity, professed freely to give, even when the giving of the whole was not required. Luk. 3. 11.

But that great ruffling flourish which this Author makes thereupon, That generally all the Fathers both of the Greek and Latine Church, make his crime to be a robbing of God of that wealth, which by Vow or Promise was now become Gods propriety; is nothing, as to the aliening the Lands of Bishops, or of the Church, (which is the point he undertook to prove;) for his crime in lying, and defrauding, lay not in selling or alienating of Lands, but in the price of them. And so all Expositors Ancient and Modern agree: which comes not up to our Authors purpose.

But, whereas he, pag. 26. alledgeth *Calvin* and *Beza*, as being of the same judgment with the Fathers herein: it is worth the noting to observe how corruptly he translateth their words which he produceth. *Calvin*, saith he, speaking of that fact of *Ananias*, *Sacrum* esset

esse Deo proficuebatur; which this man thus translateth, *He professeth that his Land should be a sacred thing unto God.* And *Beza* too, *Pradium Deo consecrasset*: the man and his wife had consecrated their Land unto God. This he doth, to wiredraw that Text, to make it reach to the unlawfulness of selling of Church-Lands of Bishops: whereas he abuseth both these Authors, and the Text it self, by such a false Translation. *Calvin* saith not, that *Ananias* professeth his Land should be sacred unto God; but the money he made of it, should be all sacred unto the Lord. Nor can *Beza's* expression of *pradium*, signifie Lands; for that were expressly to contradict the Text, which speaks it of the price, not of the Land. Nor is he blamed for selling Land devoted to God; but, for being false in his account of the sale, which he pretended to make unto *Peter*; yea, unto God the Holy Ghost himself. Oh, what Fig-leaves is Error forced to cover its nakedness withal, when called out by Truth to shew it self in the open light!

And, as touching that of the Apostle, *Rom. 2. 22.* [*commistest thou sacrilege?*] It is not denied, but that there is now such a sin as sacrilege, under the Gospel in the New Testament; that it is as odious in a Christian, as ever it was in a Jew; and is more immediately a transgression against God, than other sins against the second Table. But still this Author begs the question in extending this to Lands, while he produceth no proof or instance at all for such an Interpretation. Yea, those very instances which he alledgeth out of *Irenaeus* and *Origen*, refer to goods, not to Lands. And, what he adds, [*viz. So, the Fathers generally*] must, by his own instances last mentioned, be limited to what himself hath alledged out of *Irenaeus* and *Origen*. Else, it were ridiculous to say, *So the Fathers generally*, if they speak in another sense. How Kings have, long after the reign of *Constantine* the Great, given Lands, &c. to the Church, shall after be shewed in due place.

But whereas this Author, to prove Gods propriety by voluntary gifts, not commanded, gives instance in the Temple, as a thing accepted and owned, but not commanded of God; he was surely asleep when he did it. Did not God fore-tell, and fore-Ordain a Place which himself should chuse to cause his name to dwell there? *Deut. 12. 11.* And if our Author do not take upon him to be wiser then *Solomon*, he must confess this to be meant of that very Temple. For so *Solomon* himself calls it the place of which God had said, *My name shall be there,* 1 *Kin. 8. 29.* And albeit *David*, for that he had been a man of war, and had shed blood, 1 *Chro. 28. 3.* was forbidden to build that house: yet *Solomon*, by Gods express appointment (which hath the force of a Command) was chosen to build that House, ver. 6. Who could imagine such frothy stuff to prove his second Proposition, of Gods propriety in things voluntarily given, without a command, could fall from the bold pen of such an high-flown Author?

He also confidently affirmeth, (r) that to say, *That God accepts of money that Land was sold for, and not of the Land it self* (and instanceth in the
very

very case of *Ananias*) is contrary not only to all reason, and practise of all the world; but, to what God himself hath expressed in the Old Testament: this (in his sense) is so false, that it cannot but astonish a modest Reader that knoweth the truth, to finde him so boldly to affirm what there is no foot-step for in all the Old Testament: As shall now appear in the ensuing Discourse, wherein that Authors Impertinencies shall take up no more room. To return therefore to the proof of the first branch of the point before undertaken, *That there is no warrant in Scripture, for giving Lands to Bishops, nor proof of Christs acceptance of them*; take notice,

2. The Priests and Levites, especially Aaron himself, were prohibited to have any Inheritance in Lands by divine Lot, among their Brethren (s). Num. 18. 20. And this was to be a Statute throughout their generations for ever (c). ver. 23. The Reason was given before unto Aaron, *I am thy part and thine inheritance, &c.* That is, his portion in Tythes and Offerings, due from Israel unto him, should be theirs. For, of these, to wit, Tythes, he there expressly speaketh, (u) *I have given them to the Levites to inherit, therefore I have* ver. 24. *said unto them, Among the children of Israel they shall have no inheritance.*

Levi was a Tribe that made up a twelfth part of Israel: yet so careful was God to prevent their claim to any Lands, by divine Lot, that, when the rest of the Tribes were numbred, in order to their several Lots in Lands, God gave express order to Moses, not to number the Tribe of Levi, nor to take the sum of them; but, to appoint them over the Tabernacle of the Testimony, &c. Whereby, is more then implied, that their Office of Priesthood was then a bar to their inheriting of Lands; to such especially as were chief among them, and were always to attend the Tabernacle; as did the High Priest.

Indeed the inferiour Priests and Levites, being numerous, did not, could not all attend the Altar at once; but had their several courses and orders for waiting there. Therefore were they appointed by God, to spread all over Israel (when their courses at the Altar were over) to instruct the people in the Law of God (w), in their turns. Which being so, w Deut. 33. 10 there was a necessity of preparing some places for their own habitation, and some ground for their Cattle, which they were to make use of, as well for their domestick provision, as for travelling between those habitations and the Altar, when their turns came about.

Upon this ground, God by Moses, layd his Command upon the children of Israel, that they should give unto the Levites, of the inheritance of their Possessions, Cities to dwell in — and Suburbs for the Cities round about, for their Cattle, Goods and Beasts, Num. 35. 1, 2, 3. But of these none were appointed to the High Priest, who was always to reside about the Tabernacle and Altar. His portion, and such as served at the Altar in Person, consisted in Offerings, and in a Tenth of the Tythes, which the Levites were to pay, before they shared the rest among themselves (x). x Neh. 10. 38. But Lands he had none.

And, as for Levites, dispersed over Israel, although they had Cities and

and some Lands : yet God limited both. For the Israelites might not give what they would ; but, so many Cities and no more ; so much Land about them, and no more. The number of Cities were in all 48. (y) *3 Num. 35.* (among which, six were to be Cities of Refuge :) the names of all which, and the allotment of them to the several Families of the Levites, are set down in the 21 of *Joshuah*. Their Suburbs also were bounded by a set number of Cubites. For so God commanded the Israelites, saying (z). *2 Num. 35. 4.* The Suburbs of the Cities, which ye shall give unto the Levites, shall reach from the Wall of the City, and outward, a thousand Cubites round about. The Israelites might not give, nor would God accept one Cubite more ; although the Levites were (as is before said) a twelfth part of Israel.

But here take notice, that those Cities were not inhabited by Levites only. Others dwelt therein, and had shares also in the residue of the Lands adjacent as well as they : Only care was to be taken, that in every one of those Cities and Suburbs, so many of the Levites as were designed to each City, should be first accommodated and well provided for : and the remainder, if any were, should still be inhabited by the Owners of those Cities now allotted to the Levites.

That this was so, is evident by the City of *Hebron* (or *Kiriath-Arba*, the City of *Arba* (a), a Great man, that first founded it :) for that City being given to the *Kohathites*, who (among the Levites) had the first Lot (b), was yet inhabited also by *Caleb*, to whom *Joshuah* had before given it for an inheritance (c). Therefore, after mention of disposing *Hebron* to the *Kohathites* by the free Lot of the Israelites, it is said, But the Fields of the City, and the Villages thereof, gave they to *Caleb the Son of Jephunneh* for his possession (d). Out of which Fields, it is manifest by the next verse, that the Suburbs were excepted : for these were given to the Sons of *Aaron the Priest* (e). *a The Father of Anak. Josh. 15. 13. b Josh. 21. 10. 11. c Josh. 14. 13. d Josh. 21. 12. e ver. 13.*

Now then, if Bishops take upon them (as of late they did) to be above ordinary Priests, Presbyters, or Ministers, as *Aaron*, above the ordinary Priests and Levites ; it is as clear as Analogie can make it, that there is no colour or shew for a warrant out of the Old Testament to inable Bishops to hold any Lands ; or, for others, to give them : but an exprefs Law against it. It is true, that after the Temple was built, there was (no doubt) conveniency of habitation, and perhaps of some Lands for the Cattle of the High Priest, who is not to be thought worse provided for, than his inferiours. And when Bishops can make it out, that they are as *Aaron*, above the rest of Christs Ministers, the like ought to be allowed to them, while they continued.

Nevertheless, those Cities of Refuge, and the rest, set out for the Levites, with the Suburbs pertaining to them, for the Cattle of those Levites that were employed in the several parts of Israel to be teaching Priests (f) of the Law of God to the people, (which Lands, by Gods command were not to be alienated (g)) may, by analogie, be a good argument to prove that Lands settled upon the faithful and painful Ministers

sters of each particular Congregation, or Parish Church, as *Glebes*, for their habitation, and necessary provision of Cattle for their use, are accepted of God, as *sacred*; because Himself commanded the like for the Priests of the Law, who had sundry other obventions and in-comes by the Levitical Offerings and Sacrifices, which Ministers now cannot enjoy: and, it cannot be thought that God or Christ will be more wanting to Ministers of the Gospel, than to the Priests of the Law. And as God forbad the sale of those Lands vvhile that Priesthood continued; so it vvill accordingly follow, that *parochial Glebes* are not to be sold from the Church, so long as they be employed for the maintenance of such Ministers as truly and faithfully preach the Gospel to the people of those places, where such Lands are given. For the very Churches to which they are annexed, vvhere built by men of quality and piety, for the good of the souls of the *living*: and those *Glebes* vvhere bestowed, for the encouragement of such Godly Pastors as ministred unto them the bread of life, so far as the Founders vvhere able to judge.

Indeed, vvhere Popes have appropriated them to his *Ital'an* tools and Creatures, or unto those *Auga'an* Stables, the *Monasteries* erected in height of Popery, vvho never took care to feed the Flocks of God in those places; there, they that called themselves the Church, first led the vvay to *Sacriledge*, in the point of *Glebes*, by perverting and aliening them from their true use, to pamper the bellies of Epicures, and to maintain the State and Pomp of Atheists, under the name and habit of the Prelatical Clergie. Let none therefore vvho are of the Prelatical Party, and cry out so much against *Sacriledge*, blame the late Parliament for selling some *Glebes* that had been so appropriated, and impropiated; for they did but therein follow the same path vvich those carnal Prelates had trodden out unto them. Which, if it be *Sacriledge*, it is nothing but vvhat the *Papal Church* had taught them to commit.

If any should dream, that the setting out of the holy portion of Land about the Sanctuary (h), shewed to Ezekiel in a Vision, (as a type and b Ezek. 45. & prophecie of the state of the Churches of Christ under the Gospel,) is cap. 48. both a vvarrant, and command to set out Lands to be holy unto God, under the New Testament: that would be no other but a manifest perverting and overthrowing of the genuine sense of those Scriptures.

For, although it be on all hands agreed, that from the 40 chapter of Ezekiel to the end of that Book, the main scope is to decipher and describe the state of the Church under Christ and his Gospel; yet it is not affirmed by any one Author, that the Temple there intended, and Gods command there given touching the setting out of Lands for the same, are to be understood properly according to the Grammatical construction of the vvords, as if God meant to erect another new material Temple at Hierusalem in Judea; and, to revive and establish the same Levitical Offerings and Sacrifices formerly offered by Aaron and his Sons, to be again offered by Zadock, and others of Aarons Order. But, Sec Jua. in Ezek. 40. that all is spoken in a figure, and in a spiritual sense; yet, under legal expres-

expressions, and by vway of allusion to the material Temple of *Solomon*, as being the most glorious instance that could then be found, to illustrate and most lively to set forth the far more glorious estate, and spiritual endowments of the Evangelical Church of Christ, *the New Hierusalem*, which should so far exceed that in *Judea*, as the *Heavenly Hierusalem* (i) doth the earthly; and, as the *Spiritual Temples of the living God* do excel that of *Solomon*. Wherefore, to draw an argument thence, for the consecrating of Lands in a proper sense for the maintenance and state of *Bishops*, is not only to proclaim him to be a weak man that doth it, but to publish to all the world that there is no ground in Scripture (as indeed there is not) to found any Title of *Bishops* Lands upon.

The Original
of Bishops
Lands in Eng-
land,

The Original then (and by consequent, the Title) of *Bishops* Lands, in this Kingdom, can derive no further or higher than the abused magnificence and bounty of Princes and others, nuzzelled in ignorance and superstition, both before and since the Conquest, in the height of Popery; vvhcreby Monasteries and Cathedrals have been endowed vwith large portions of Land and other Revenues, under the specious pretence of giving them to God, and Holy Church: even to the impoverishing not of private Families alone, but of the Kingdom also. Nor vvere they given indeed to maintain a Preaching Ministry, to instruct the people in the true knowledge of Christ and his Gospel (for this, most of those men that held those Lands ever persecuted;) but, for Superstitious ends and uses; and imployed (for the most part) to maintain the Riots, Pomp and State, and other excesses and lusts of Abby-Lubbers, and other belly-gods and drones, to the great dishonour of God, and scandal of the Gospel.

Therefore it is to be observed, that the greatest and richest indowments of Cathedrals and Monasteries with Lands in *England*, were made when Satans Throne was most exalted, and his Kingdom in greatest peace, even in times of thickest Popish darkness; when even Kings themselves, and Nobles scarce knew a letter, nor the rest understood any thing of Christ or Religion; no, nor of the very Laws of the Nation; but what the Prelatical Popish Clergie (whose policy and interest it vvas to keep all in grossest ignorance) thought fit at some special times, for their own gain and advantage, to communicate. The Clergie being the sole Masters of the times, and holding all the chief Offices and Places of Power and Judicature even in the State, as vvell as in the Church, did vvhate they list both with King and People. And with their familiar spirit of Excommunication (the great *Mormo* and scare-crow of the Laity) they could and did conjure in to their own and other Churches, what quantities of Lands, or of ought else that was beneficial, they pleased.

But in nothing did they exercise so much tyrannie, as over the consciences of men, according to what was prophesied by their greatly pretended Paron and Pillar, *St. Peter* (k), who gave warning long before of their wiles and tricks, whereby, *through covetousness, with fained words, they would make merchandise of the people*. This they did, not only

only as they of old, that *swallowed up the needy*, first by making them poor; and then *buying them for silver*, and the needy for shoes (1); Amo. 3. 6. but as those Merchants of Babylon, whose Merchandise was not of *hassels and sheep, of Horses and Charets, of Slaves and bodies alone*, but of *Souls of men* (m). m Rev. 18. 13.

And as they kept the people in ignorance, the more easily to prey upon them: so they purposely winked at all their wickedness, their adulteries, rapes, murders and other villainies which they committed against others of the Laity, till they saw it most seasonable to carve large gobbets out of their Estates, vvhhen they had them sure vvithin their Nets. Then, they would (to this end) fall foul upon them, terrifying them with unsufferable torments, first in Purgatory, and afterwards in Hell it self; unless they speedily gave such large portions of their best Lands as these Harpies pleased, to expiate their sins, and to prevent those miseries. Which if they did, they were presently absolved, and proclaimed meritorious; especially, if they could be drawn to give so much, as might redeem the souls of their deceased Ancestors too, out of Purgatory tortures. By this, they merited Heaven; but, without this, they must expect Hell for their portion. Strong Arguments to weak and silly Souls abused by *blind Guides*.

All which Donations, they were made to believe were given unto God, and to some Saint: whereupon they needed not to doubt of their own pardons, and the release of their Ancestors out of Purgatory fire, which kept the Kitchens of those soul-killing Prelates so warm.

All those Charters must (for the better grace of the business) begin with the Name of God, as if all were given to him, and that he accepted thereof; meaning, to themselves, to cram their purses and panches, to the use of the Devil. Therefore when he or his imps had any mischief to act, they usually made *In Dei nomine Amen* [In the name of God Amen] the Preface to it. Whence that old Proverb, *In nomine Domini incipit omne malum*. When they had a minde to fleece any man, God himself must be made a party, to countenance their avarice; even when *God was not truly and indeed in all their thoughts* (n); and Psal. 10. 4. *their eyes and their thoughts were not but for their covetousness* (o). o Jer. 22. 17.

Nor would the Donors have parted vvith such ample Territories, but as being made to believe by those Merchants to whom they gave them, or by their Agents and Factors, that thereby they satisfied God for their sins, and expiated the guilt of some hideous and hainous wickedness which they had before committed: or, as hiring the Priests and Monks that were to enjoy those Lands to redeem the Souls of their Ancestors out of Purgatory, or to curse their Enemies with *Bell, Book and Candle*, as the manner then was, the more to please (or rather fool) the ignorant Founders, whom by such means they cheated of such large donations; as any indifferent man vers'd in the Histories of those times, cannot but know.

And lest this should be thought a slander, take but these few instances

p Denet. par. 2.
cauf. 12. q. 3. C.
Pontificis.

for proof thereof. First, in the very Body of the Popes Canon-Law, (which is enough to silence for ever all such as plead for such Popish Donations) it is declared as a Maxime not to be denyed, *Ille qui donat, pro redemptione Animæ suæ, non pro commodo Sacerdotis offerre probatur* (p). He that gives ought to the Church, doth it for the Redemption of his Soul, not for the gain of the Priest. And this Shooing-Horn was held out, the more easily to draw on other mens Revenues, upon their Feet, who gave out this for a Law, that all such Gifts redeemed the Souls of the Donors and of all others that they pleased to mention in their Donations: which was, indeed, to give to the Devil, not unto God: because it makes man his own Saviour, and denieth the satisfaction made by Christ; which is a *Dollrine of Devils*.

How the B'shops
Lands at Wells,
were first given
q Godw. of B'ys,
pag. 358. Mo-
naſt. Anglic.

In this manner did Kennulph, King of the *West Saxons*, about the year of Christ 766. endow the Church of *St. Andrew* in *Wells* (then a *Monastery*) with a large Patrimony in Lands, in and about *Wells*, *Mendip*, and other places adjacent; some of which Dr. Burges hath now bought. For in his Charter (q) he declareth that he did it, *pro expiatione delictorum suorum, nec non (quod verbo dolendum est) pro vexatione inimicorum suorum Cornubie gentis*: "For the expiation of his sins, and (which he was sorry for) for the vexation of the Cornish People. That is, to hire the Monks of *Wells*, to curse the *Cornish* Men, which he could not subdue by his Sword. And verily he had need to do somewhat for expiating his sins, as the Doctrine of those times, (wherein the sufficiency of Christs satisfaction for true Penitents was concealed) ran. For he was so much given to Adultery, that even after that great gift, he could not leave that sin, but rather grew more bold to continue it: as appears by his going in that Errand to one of his Concubines which he kept at *Merton* (r) (or *Marion*) in *Devon*, where he was discovered, surrounded by Enemies: (in all probability the *Cornish*, who knew his haunt) and there slain. So Divine was the gift of the Mannor of *Wells*. And so highly did God accept and own it as His Propriety, that the Curse which the King intended to fall upon his Enemies, fell upon his own head, by those very Enemies whom he had hired the Monks of *Wells* to curse.

r Sim Danel. ci-
ted by Speed &
Isaackson.

And that this was the High-Way wherein the Popish Clergy of *England*, long before (as well as since) the Conquests, constantly travailed: Take one Testimony more of that famous *Gildas the Elder*, (surnamed *Sapiens*) who being a Britain *Presbyter*, within the Sixth Century, or hundred of years after Christ, thus chargeth the Popish Clergy of his time, who had suck'd their Principles from *Augustine* the Monk, sent from *Rome* on purpose to advance the State and Pomp of the Clergy, under colour of planting the Christian Faith in *England*: For thus he (s): *Britania habet Sacerdotes, sed nonnullos insipientes; quamplurimos Ministros, sed multos impudentes; Clericos, sed quosdam raptores, subdolos; Pastores ut dicuntur, sed occisioni animarum lupos paratos: quippe non commodo plebis providentis, sed proprii plenitudinem ventris quærentes. Ecclesia domos habentes, sed eas turpis lucri gratia adeuntes, &c.* "Britain (saith he) hath Priests, but
" some

f Ecclef. Ordia.
corrupt. Bibl.
Patr. 105. par. 3.

"some of them very Dolts : very many Ministers, but many of them im-
 "pudent ones : Clergy-men, but very Thieves and Cheaters : *Pastors*, as
 "they are termed, but in truth Wolves, standing ready to slay and slay the
 "Souls of the Sheep; for that they seek not the good of the People, but
 "the crambling of their own Bellies : they have Church-Houses, but never
 "repair to them, unless for their own filthy Lucre. Again, that he might let
 all men see that he involved the Bishops of those times, yea even the
 Pope himself within this Charge, he addeth, *Sedem Petri Apostoli im-*
mundis pedibus Usurpantes, sed merito cupiditatis in Juda Traditoris Pestil-
lencia Cathedram desidentes. "With unclean feet, they Usurp the Seat
 of the Apostle *Peter* ; but through Coverousness, they rather sit indeed
 "in *Judas* his Chair of Pestilence. This, with much more, that highly
 esteemed Author, writes of the Clergy of his time : which future ages did
 not make better.

For since the Conquest, the Prelates and Monks have been more high-
 flown, & grasped more Lands (upon the same account with the former) into
 their Possession, then their Predecessors ; in so much as the Clergie, Monks
 and Nuns of *England*, being not a fortieth (nay not a hundredth) part of
 the Kingdom, had by these wiles and devices gotten (as some intelligent
 men have computed) a third part of all the prime Lands in the Nation,
 into their clutches, at what time King *Henry* the Eighth began to seize
 the lesser Monasteries : and all upon the same ground of *meriting Salva-*
tion for themselves and their Relations, dead, or unborn.

Thus *Henry* the Third, in the ninth of his Reign (himself being then
 but eighteen years of age) was hook'd into that *Great Charter*, (so much
 cryed up by the Prelatical Clergy) to which he thus prefaceth : *Henry, by*
the Grace of God, King of England, &c. to all Archbishops, Bishops, &c.
Know ye that We, unto the Honour of God, and for the Salvation of the Souls
of Our Progenitors and Successors, Kings of England, &c. have given and
granted, &c. to which all the Bishops and Abbots, as well as others, were of
 Counsel, and Witnesses: by which it appears, that this Charter was grant-
 ed to *merit Salvation* : so as however the *honour of God* be mentioned,
 yet the dishonour of *God* and *Christ* lay at the bottom of that Grant, in
 reference to the Foundation laid in his heart by the Prelates.

Magna Charta.

The same is after declared in the Statute *De Provisorib. Beneficior.* in
 the 25 of *Edw.* 3. where it is expressly said : "That the Church of Eng-
 "land, was founded in the State of Prelacy within the Realm of *England*,
 "by his Grandfather, (which was *Edw.* 1.) and his Progenitors, and by
 "the Earles, Barons, and other Nobles of the said Realm, and their An-
 "cestors, to inform them and the People of the Law of God ; and to
 "make Hospitality, Alms, and other Works of Charity, in the places
 "where the Churches were founded for the SOULS of the Founders, their
 "heires, and all Christians, &c. In which Act, the Bishops, as well as o-
 thers, joyned, thereby proclaiming to the world, the superstitious Foun-
 dations of getting so many Lands to the Church.

This was e-
 ver pretended,
 but never per-
 formed, unless
 by some few, ve-
 ry rarely; as
 the stories of
 those Times
 plainly testifie.
 See *Mat. Paris*
ad ann. 1253.
Fox his *Mar-*
tyrol. of the
 same times.

Yea, so zealously bent were the Prelates of those times to augment the
 Churches

† *Lindw. l. 5. tit. de penit. & re-
miss. ca. cum a-
nims.*

Churches Patrimony, that a *Constitution* (1) was made in a Provincial Synod under *Richard Wisberhed* (alias *Weather-head*) in the Reign of *Hen. 3.* not to suffer any *Physician* to administer any Physick to any Patient whatsoever (be he in never so great Extremity and Danger) till the Patient were first shrived by a Priest, under pain of Suspension *ab ingressu Ecclesie*. The pretence was, to physick his Soul first: but the meaning was, to get a collop to some *Chanery*, or *Monastery* to pray for his Soul in Purgatory: upon which the Priest absolved him; and not before. And this was that which occasioned so many Chanteries, justly vacated and seized by *Edw. 6.* being given to him by Parliament, 1 *Edw. 6. 14.*

Cap. 36.

Nor were the Kings and Parliaments (especially after King *John*) so hood-wink'd and cow'd, as not to take notice of, and provide against those excessive gifts of Lands to the Church (as they call'd it) which so greatly rob'd the Commonwealth. For the same *Hen. 3.* who first granted the *Great Charter*, wherein he confirmed the Rights and Liberties of Holy Church (as that Idolized Crew was then termed) did in the same Chapter, enact (a) "That it should not be lawful from thenceforth to any, to give his Lands to any Religious House, and to take the same again, to hold of the same House". Nor shall it be lawful to any House of Religion to take the Lands of any, and to lease the same to him of whom he received it. And that, if any from thenceforth gave his Lands to any Religious Houses, and thereupon be convicted, the gift should be utterly void, and the Land accrew to the Lord of the Fee. Here then was a Liberty of resuming Lands dedicated to the Church, and an employing of them to such secular uses as the Lord of the Fee should appoint, without incurring the guilt of Sacrilege.

* Because

Lan's so held
were free from
all Tythes,
Taxes and Es-
chetes. There-
fore many did
so convey
Lands, to co-
zen the King,
and other chief
Lords.

Next after *Henry* the Third, succeeded his Son, *Edward* the First, who confirmed *Magna Charta*, in the 25 of his Reign (and with it the Clause or Chapter last mentioned:) but before he did that, even in the seventh of his Reign, he made a strict Law against *Mort-main* (by advice of the Prelates, as well as others) to make all gifts and Purchases of Lands (without special License from the King) to be null and void, and the Lands forfeited to the chief Lord, if he took the advantage within a year and half; or else to the King, in case the chief Lord neglected the seizure within the said time therein limited and appointed for his seizing thereof, for his own use.

Which Law however it were mitigated at the importunity of the Clergy, by *Edward* the Third, who in such Cases enacted the taking of Fines in stead of Forfeitures; Yet afterwards, in 15 *Rich. 2.* that first Statute of 7 *Edw. 1.* was not onely set on foot again, but extended to all *Guilds*, *Fraternities* and *Corporations*, yea, to all Donations of Lands for *Church-yards*, or for any other Church Use. And that if, contrary thereunto, any should presume to give, or to receive any Lands upon a Church account, or otherwise, without the Kings special License, they should either procure his License, or sell away those Lands by the then next *Michaelmas*.

By

By all which it is manifest, that neither the Kings, nor Parliaments, nor Bishops themselves in Parliament, ever took all Lands given to Churches to be Sacred, and Gods Propriety *Jure Divino*, or so much as lawful for the Church to hold them, without License from the King or other chief Lord of the Fee, of whom such Lands were before holden. Witness the many Statutes against *Mort-Main* (or against the falling of Lands into a dead hand, that is, the Church;) whereby neither King nor Kingdom could receive any thing out of them, for Defence of the Realm; nor the chief Lords enjoy the benefit of chief Rents, Services, Fines of Alienation, or Elchetes; which being an apparent wrong to all, occasioned those Statutes.

Not that it is unlawful to endow particular Parochial Churches with Glebes or Lands necessary for building of Churches upon, and for the accommodation and provision of faithful Ministers of Christ, that faithfully dispense his Ordinances to their Flocks, so it be with leave from Authority, and all interested in them; and that it be done moderately, for necessary sustentation of them and their Families. The *Levites* that might have no large Territories, answerable to the rest of their Tribes, had yet several Cities set out for their habitation, and Suburbs for their Cattle. But what, they might not grasp all that the People would give, but were confined and limited to such a quantity, *a thousand Cubits* outright from the wall, round about their several Cities, and no more, as was before shewed. And so far hath it ever been accounted from being lawful for Bishops to lay Field unto Field, Mannor to Mannor, to impoverish many to enrich one, upon the account of the Church, and Gods acceptance thereof, as sacred and holy, that even an Archbishop (*) (having deserted the Romish Church) hath proclaimed it Sacriledge, & *rapinam injuriosissimam*, and most unjust rapine. "This is not (saith he) to inable men to labour in the Gospel, but to supply them with Fewel for Riot and Excess; and to pervert what was given for the benefit of the Church and for necessary provisions, to the shame, scandal and ruine of the Church; it is not to take off, but to multiply the impediments of the saving of Soules."

Thus we see the Title of *Bishops Lands*, what it was; and upon what grounds, and in what manner, procured and enjoyed; vvchich argues them to be (in the construction of Scripture) far from being *sacred* and *holy* unto God, by such corrupt Dedications; and particularly, of those very Lands purchased by Doctor *Burges*.

It remaineth now to make out, That the aliening, diverting, or purchasing such Lands for common use (notwithstanding their first dedication) neither is, or can be Sacriledge, or otherwise sinful or unlawful. This is in great part evident, by what hath been before set forth; yet, for more full satisfaction, somewhat more shall be added.

To begin with the Cities and Suburbs of the *Levites*, will be a good step to the clearing hereof. First, their Houses might be sold, even by

* Spalar. de
Repub. Ecclesiast
l. 9. c. 7. n. 36.

No Sacriledge or sin, to buy or sell Bishops Lands.

x Lev. 25. 32,
33.

by themselves without sin. For that Law which was made for the redeeming of it at any time (which others might not do, that sold Houses in a walled City, unless they redeemed them within the compass of the first yeer after sale;) and for the return of it, at the next Jubilee (x), in case it were not redeemed before, plainly implies a lawfulness for any man to buy an House that pertained to a Levite, if it were to be sold; and that it was no sin to detain it, till it were either redeemed, or returned at the Jubilee, as all other Lands sold by others were to be. This might be done without the least branding of the seller or buyer; Yet those Cities were by Gods own appointment, set out for the dwelling of the Levites.

y Ibid. ver. 34. Indeed God forbade the Levites to sell their Lands; to wit, the Fields of the Suburbs of their Cities; for it was their perpetual possession (y) It was the same in effect with our Parochial Glebes: and so, might not be aliened, or sold, so long as their service and Priesthood continued. Howbeit, afterwards, when their service was ended, and the Priesthood removed, they might as lawfully sell their Lands as their Houses. Elise Joses surnamed Barnabas, a Levite, had committed Sacrilege, for that he (after Christ changed that Priesthood) having Land sold it, and laid down the money at the Apostles feet; which is recorded by the Spirit of God as an eminent act of exemplary piety and charity, and of the soundness of his faith and conversion.

Now, if it were no sin in him then to sell, it could not be a sin in others to buy such Lands, (and other Lands the Levites might then have none) albeit those Lands, by God's own Edict, were to be continued in the Priests while their Priesthood lasted. Can it then be so haynously sinful to sell, or purchase Bishops Lands (which no Law of God ever settled upon them) after their Office and Function is wholly taken away?

But it is happened to some of those rash Censurers, as it did to those Oxen, of whom Columella (that famous Husbandry-Writer, in the dayes of Claudius Caesar) saith (z), that feeding upon some rank grounds, ran wild with the fatness of their Food.

And whatever some think now, that it is Sacrilege to aliene any thing once pretendedly dedicated unto God; yet even the Bishops themselves in Parliament have thought and determined otherwise, as well as Kings and the rest of the Parliament, in the Acts formerly mentioned; vvherein, especially in one of them (a) they make all Lands given without License, to be forfeited, and to be seized, unless they procure a License to amortise them, or sell or alien them (to some other Use) before Michaelmas then next coming. This shews plainly, that albeit it was not held lawful for Bishops, Monks, or others, to receive or purchase Lands in Mortmain: yet it was lawful (if they had so done) to sell them (for the Parliament directed the sale) and therefore lawful for others to purchase them for common uses, when once it should be discovered that those Lands were so given and dedicated as therein was forbidden.

To which may be added, 1. That Bishops Lands especially, were at first given

given to maintain their State and Magnificence, as Lords, with special reference to State - Employments; For that the Kings were wont to have the greatest part of their Counsels, for the safeguard of the Realm, when they had need, of the said Prelates and Clerks so advanced (b). 2. That neither in those times, nor since, did many of them (yea scarce any) take pains to teach the Law of God to the People, which was one end for which Bishops were endowed with such large Revenues, as the Statute *De Provisoriis Benefic.* before cited, expressly declareth. So that this being neglected, they lived in so great a sin, as (in the judgement of those few of them, who made more conscience of their Duty in this kind) next to the sin of *Lucifer*, there could not be a greater. Witness that Learned and Zealous Bishop *Robert Grossthead*, Bishop of *Lincolne*, in the reign of *Hen. 3.* who having received a Command from Pope *Innocent* the Fourth, to admit one *Frederick de Lavania*, that Popes Nephew (that is, his Bastard) to be a Canon and Prebend of *Lincolne*, that Bishop wrote back to the Pope a flat refusal of that his command: telling him moreover, *Post peccatum Luciferi, &c.* "That next to the sin of *Lucifer* (which shall be in the latter time, to wit, Antichrist, the Child of Perdition, whom the Lord shall destroy with the breath of His Mouth) there is not, nor can be any kind of sin, so repugnant and contrary to the Doctrine of the Apostles and holy Scriptures; and to our Saviour Christ himself more hateful, detestable and abominable, then to destroy and kill mens Souls, by defrauding them of the Ministry of the Pastoral Office. Which sin, by most evident places of the Scripture, such men are known to commit, who being put into the Pastoral Office, provide for themselves of the milk and wool of Christs sheep, that by his appointment were to be vivified and saved, but do not administer to them their due: for, the not administering of the Pastoral Ministraton, is by the Testimony of Scripture the slaying and perdition of the Sheep. 3. That not onely all their Civil Employment in State-Affairs (for which they were exalted so high) is wholly taken off by special Act of Parliament, with the Royal Assent (c); but their very Function and Office, (as Archbishops and Bishops, as themselves and theirs were pleased to distinguish them from, and to set them above the rest of their Brethren in the Ministry) hath been since by the same Parliament pluck'd up by the roots. Therefore their Lands must needs Eschete and revert to the Commonwealth, the proper Heires of the first Founders and Donors, being long (yea, many Ages) since dead, and their own particular Heires, and Memory perished from off the Earth.

The Parliament therefore had as good right to sell or alien them to any other use, as the first Donors had to give them to those uses expressed in their several Donations; or as that Parliament in 15 Ric. 2. (which had the consent of the then Bishops in Parliament) had to appoint or permit all such as had gotten any Lands, without License, to sell or alien them to private uses; or, as any particular Lord in chief (by the same Act of Parliament, Ric. 2.) had to seize and sell any such Lands so given, if fallen

b Stat. de Provis. Benefic. 25 Edw. 3.

Mat. Paris, ad Ann. 1353.

c 17 Car. c. 28.

unto him by such Forfeiture and Eschete. So that now, it is no more Sacriledge or sin, to buy and enjoy Bishops Lands, after the final and total abolition of Bishops, then it was for *Joses* (or *Barnabas*) the Levites to sell his Lands; or for any man at this day to buy any of those Suburbical Lands of those forty eight Cities, heretofore set out for the Levites.

This might suffice, if it were not ever too true of some, *non persuadebis, etiamsi persuaseris*. Thou shalt never persuade me to be of thy Opinion, although by Reason thou sufficiently convince me. Therefore *Answers* must now be given to such plausible *Objections*, as seem to carry molt strength of Reason in them.

1 *Object.*

First, it is said by some, That Bishops (as such) are of *Divine Right*, or, (which is Equivalent) of *Apostolical Constitution*: and therefore could not by any law of man be taken away, as the Levites might, and ought to be, when Christ himself had put a period to their Service and Office.

Answ.

To this it is Answered: 1. That if a Parliament (the Representative of the whole Nation) shall enact an Abolition, no private person or party (out of Parliament) may gainsay or oppose it, without making himself liable to punishment. 2. That if by Bishops, be meant onely Ministers of the Gospel, faithfully feeding the particular Flocks committed to their Charge, *not as Lords over Gods heritage*, (d); they could not be taken away; for such are of *Divine Institution*, not to be abrogated by man. But 3. Our Bishops would none of this. Nothing sounded so harsh in their Ears, as a *Parity*. This was not onely *Schisme*, but *Heresie*, in their Construction. They claimed a Power and Dignity (even by Divine Right) above other *Presbyters* or *Ministers*, as a distinct Order from, and superiour to that of *Presbyters*: And that in the two greatest points of Authority. For, they appropriated *Ordination* and *Jurisdiction* solely to themselves, and to their Officers in their Right; which is expressly contrary to the Testimony of Scripture, both touching Ordination, 1 *Tim.* 4. 14. *Act.* 13. 1, 2, 3. and Jurisdiction, 1 *Cor.* 5. 3, 4, 5. 2 *Cor.* 2. 6, 7, 8. & *vers.* 10. And as upon this Account, they looked upon themselves (even in the beginning of that Parliament, which after threw them out; witness that Book of *Episcopacy by Divine Right*, written by *Jos. Exon*; and published, *Anno* 1640.) and had their Lands vested in them, as appears by that Statute of 25 *Edw.* 3. before mentioned: So the Parliament taking them at their own words, look'd upon them too; and upon that very ground threw them out. Since which time, none of them have vouchsafed to assert their Title to be *Jure Divino*. If therefore the Levites, who had a clear plea for their *Divine Institution*, justly lost their Lands, and other Revenues, with their Offices; there can be no scruple of conscience to buy or enjoy Bishops Lands (whose Title was never so good as that of the Levites) after the Bishops themselves be laid aside for ever, as Usurpers over the Ministry, as well as over the rest of Gods Heritage.

They

They are no otherwise cast out of their Office, then *Diotrephes* who loved to have the pre-eminence (e) was by St. *John* himself, cast out of the Church, e 3 Joh. 9, 10. whom that proud Prelate persecuted, by his prating and malicious Words.

But it is pleaded, *That the Bishops were Ministers too* (although aliquid a Object. amplius, somewhat more) and preached as well as others; and were moreover, of great Use for the good Government of the Church, and support of the Truth, which since their ejection hath extremely suffered. Therefore at least, as Ministers, they and their Means should have been continued.

Ans. Admitting (but not granting) all this to be true: yet what they really did, might have been and still may be done as Ministers, although not as such Bishops. It is their Episcopal Dignity, not their Ministry that is taken from them. And their Lands were fixed (as hath been shewn) to their *Episcopacy*, not to their Ministry: to their *State of Prelacy*, not to the *Presbytery*. If any of them (as very very few of them had) had a mind to preach the Gospel (as that Archbishop, Dr. *Usher* did, so long as he was able, and was therefore honoured and encouraged both living and dying) they might have had liberty so to do, notwithstanding the abolishing of their Episcopal Usurpation. But the generality of them were so far from it, that they did their utmost against it, while their Power continued.

Was it not by their procurement, that preaching was prohibited, especially in the After-noon of the *Lords Dayes*, and the *Book of Sports*, compiled and published with Authority, and countenanced by them? was not strict inquiry made in their Visitations, whether every Minister had published that Book, in his Church: and they severely punished, that refused it? was it not their great study and contrivance to put down Lectures, not onely on those dayes, but on week-dayes also? was it not fully proved (not by *Puritans*, but by such as after turned head against them) that one of those Bishops thanked God, that he had put down all the Lectures (even Mr. *Crookes* also, which was preached gratis, and at his great Cost) within his Diocese? were not even conformable Ministers (how able soever) scotned and persecuted as *praters* (not *Preachers*) if they took so much paines in preaching as might justly shame the Laziness and idleness of Drones and Prelatical Pluralists, who held it to be an Evidence of their great Parts and deep Learning, to preach but seldom? was it not piacular for any *Animalculum predicabile*, or *Preaching-Coxcomb* (as Dr. *Lindsey* stiled Bishop *Usher* himself, for his often preaching) that is, for any faithful Minister to preach twice a day; being by another Bishop, compared in a scoff, to a bruit Animal, *Virgil's Cow*, that (*bis venit ad mulctram*) came twice a day to the Payl?

And as for the Bishops own preaching, (especially at last, when they designed to gain all those Places and Offices of Trutt, Power and Judicature of the Commonwealth, which the Popish Bishops in former Ages aspired unto) it became an Offence unpardonable, to mind them of their Duty in preaching, when many of them had laid it aside, as too mean and low a thing for their Greariness, and as a thing unnecessary and in-

competent with their greater and more weighty Affairs. Among other Instances, take this for one.

Anno 1635. Doctor *Burges*, preaching a Latine Sermon to the *London*-Ministers, in *Alphage Church*, near *Sion Colledge*, pressed all possible sedulity in preaching: to drive which nail to the head, among other Arguments, he urged what was antiently required herein, even of Bishops themselves. For which purpose, he first minded them of the Third part of the *Publick Homily against the Peril of Idolatry*: wherein it is said of the Primitive Bishops, "That they were preaching Bishops, more often seen in Pulpits, " then in Princes Palaces; more often occupied in His Legacy, who said, " *Go ye, into all the World, and preach the Gospel*, then in the Embassages " and Affairs of Princes. After which, he recited an old Canon, of the sixth *General Council in Trullo*, with *Zonaras* his Note upon it: which Canon enjoyned Bishops " To preach often; at least, every Lords day; or to be " Canonically admonished, for their neglect: whereupon, if they reformed not, they were to be excommunicated or deposed.

f A.C. 11.

For this, some of his Prelatical and dronish Auditors informed the Archbishop of *Camberbury* against him, who forthwith complained of the Doctor to the King himself. Shortly after, he was by Letters Missive summoned into the High Commission Court, (then, little better then the *Spanish Inquisition*) to answer this haynous Crime. Upon his appearance, Articles were exhibited against him, as being dis-affected to the Book of Common Prayer, the Ceremonies, and Government of the Church; as also for charging the Bishops with conniving at the then too palpable growth of *Arminianism* and *Popery*, and their too much conforming thereunto, &c. But chiefly, " For that he seemed to tax and accuse divers " Prelates and Reverend Bishops of this Kingdom, for neglecting to " preach often: and for alledging to that purpose, that the ancient Bishops were frequent and diligent Preachers; quoting an old Canon, " that every Bishop should preach every Sunday; and if negligent herein, he should be admonished; upon which, if he reformed not, he was " to be excommunicated or deposed: without considering their many and " weighty Affairs.

This, made them spurn so furiously against him, that their Party everywhere gave it out, that he should be both *Deprived* and *Degraded*. And doubtless it had been so, had he not given them enough in his Answers to their cavilling Articles, and in his Protestation annexed to the Copy of that his Sermon delivered to *Archbishop Laud*, who after perusal thereof, never troubled him further, he having professed to stand to what he had said in that Sermon, against all Opposers to the Death.

This was the third time wherein the Doctor was called into that Court. *g An. 1622.* Once (g) he was brought thither by a potent Adversary (who had made a strong Party against him) for being dis-affected to *Episcopal Government*, *h An. 1629.* & for permitting some, so fit, at receiving the Lords Supper. Another time (h) he was questioned there, for refusing upon a Thursday (he being then requested to preach the Lecture at *St. Mary Overies* for the then Lecturer there)

(there) to read Common Prayer in his Surplice and Hood, before the Sermon: On purpose to deter Godly Ministers from preaching Lectures.

And as they thus grew incorrigibly negligent in the duty of the Ministry (here and there one or two black Swans excepted) so did they as much over-lash in another extrem; being too pragmatikal and conversant in Civils. Inasmuch as by reason of some affronts put upon one or two of them as they were going to the *House of Peers* assembled in Parliament, many of them privately drew up a Protestation, which they after delivered, (contrary to the Priviledge of Parliament) to the King, not to the Parliament it self, against all Acts and Proceedings in Parliament, in their absence, as *null and voyd*. This high Act of theirs drew upon them the hatred and scorn not only of their supposed enemies (who as yet had done them no harm,) but of their friends also; yea, so did it incense all against them, it that occasioned the throwing them, first, out of the Parliament; and then, out of their Episcopal Office and dignity for ever.

But, admitting they were justly ejected, yet so many direful Curses have *3. Object.* been denounced against all such as should aliene, sell, purchase, or imploy those Lands to other uses, that it may justly make any man afraid to meddle with them.

To this, a short Answer may suffice. Where God bids *Curse* (as in *Ans.* Deut. 27.) there is cause to fear *Curfing*. If an *Elisab* (i), an *Elisha* (k), i King. 1. 10. & a *David* (l), a *Peter* (m); (acted by Gods Spirit) shall denounce a *Curse*; wo to such as fall under it. Such Curses shall surely take effect. k 2 Kin. 2. 23. l Psal. 109. m Act. 8. 10. God himself will own them, and requireth all his people to say Amen to them (n). But, as the bird by wandring, and the swallow by flying, (escapeth the Nets and Snares set by the Fowler for them) so the causeless *Curse* shall not come (o). That Providence that preserveth the sparrow from falling to the ground (p), till God will have it so (let the Fowler do what he can to take him;) doth likewise fo order the matter in a causeless *Curse*, that it shall never reach him against whom it is intended; yea, God blefseth most, where wicked men, or others, belch out the most bitter curses. Let them then be afraid of those *Curses*, who finde a warrant from God for such cursing. A *curfed people* is ever a *curfing generation* (q). q Rom. 3. 14.

Who set them on work to *Curse*? Even the same who indeed set on *Shimei* to *curse David* (r), not God, as *David* feared; but the *Devil* and *Ahitophel*, as *David* afterwards plainly found; that 109 *Psalm*, being chiefly bent against *Ahitophel*, of whose *curfing* vve never read, but that, by the mouth of *Shimei*: *David* fared never the worfe for their cursing. But themselves that *curfed*, fell under their own *curse*. For however in *David*s time, *Shimei* felt not the *Curse*; yet it came home to him vwith a witness by *Solomon* (s). And as for *Ahitophel*, he drew a *Curse* from *David*, that reached his very neck and life. For, as he loved *curfing* (by setting *Shimei* on vwork) so it came unto him. As he clothed himself with *curfing*, like as with a garment which covereth him, so it came into his bowels like water; and like oyl into his bones, &c. when he hang'd himself. Those busie *Cursers* of the Prelacie have found this effect upon

upon themselves and Successors; their curses being come home to the Bishops and the rest of the Prelates, many hundreds yeers after *their months were so full of cursing and bitterness*. Let therefore such as please themselves vvith frightening others vvith *curses*, beware they meet not vvith some share in those very *curses*, vvhich now they so groundlesly seek to scare their brethren vvithal, it being no other but an engine of Antichrist forged in Hell.

4 Object.

The last and most generally-taking Objection is this: *Be it that Bishops are justly cashiered, their Lands forfeited, and rightly taken from them by the Parliament: Yet it is generally held by all sound Divines, that those Lands and Revenues (although at first superstitiously, or superfluously given) being once dedicated unto God, may not be aliened, sold, or diueried to any secular or common use; but ever continued for the maintenance of the true worship of God.*

This objection is plausibly received among honest Godly men; Yet is capable of Answer, thus:

Answ.

1. This opinion is not in the case of Bishops Lands, founded on the Scripture; but upon that commonly received maxime cast in the Popes mint; *Semel dictum Deo non est ad humanos usus ulterius transferendum*. Which wherein, and how far forth it holds good, hath been above declared, and need not to be repeated. Things once given to God, by his command, warrant, or approbation, may not be aliened to other uses, vvhile the use of Gods appointment doth continue: But, not all that men pretend, or say, *they give unto God*. As in Persons, so in things, such only as the Lord chuseth, or accepteth (and none else) are *holy* (t), let men say and think vvhat they vvill to the contrary. To pin therefore Bishops Lands upon God, because once pretendedly given to him, is like those gifts of the Israelites in the absence of *Moses*, pretended to be given unto God, vvhen *they brake off the golden ear-rings which were on their ears, and brought them unto Aaron, to make them Gods to go before them* (u). They intended them as gifts to the true God, as they thought; yet were those gifts far from acceptance with him; or reserved for holy uses, after the folly and wickedness of the Givers vvvas discovered and punished.

* Exol. 32.3.

2. It is apparent that those gifts to Bishops were to be no longer continued, than the function of those to vvhom they vvvere given, remained: *Datur Beneficium propter Officium*; Office and Benefice are relatives; like twins, they live and die together. The Bishops share in the goods and Lands of the Church, hath been for many hundred yeers severed, and known from the rest of the Churches Patrimony that vvvas to maintain others; and so cannot be claimed by others, vvhen the Bishops Order and Office is taken away.

3. When the vastness of the Revenue, or unlawful procuring of it, is a vvrong to the Common-wealth, or to any particular Family; this is not a *dedication* to God, which he will own; but an abusing of him, by fathering upon him the acceptance of that, vvhich is a vvrong to others; and

and a profaning of his name, by teaching all to take that for a vvarrant, to deny to others their due. That position therefore now urged, vvould be of dangerous consequence, if taken universally and vvithout due bounds.

4. Things voluntarily dedicated, by Gods own appointment, cannot be aliened. If it hath been abused, that must be rectified, and the things continued, for some other holy use, although not at first intended by the Donors. Thus, the *Censers* abused by *Korah* and his Companions, were no more used for *incense*; yet, *because they were hallowed, they were converted into broad Plates to cover the Altar* (w). But in things not appointed by God from the beginning, this Tenet holdeth not. For, being dedicated upon false grounds, & for superstitious ends (most derogatory to God and Christ) to maintain, feed, and encrease the pomp and pride of Harpies that lay in wait as he that setteth snares and traps to catch men (x), thereby to fool them out of their estates upon false pretences, for ends of their own; this dedication is no vvhit better, than the hire of a whore, or the price of a dog, (that is, then money gotten by whoredom, or by the sale of a dog,) brought into the House of the Lord, and dedicated to him; both which, he abhorreth (y). Such are all those gifts of Lands dedicated to God, first gotten by rapine and spoyl; or, to put Christ out of office of saving souls, and to do it by such gifts. He looks no otherwise upon them, then as the offering of swines blood, the cutting off of a dogs neck, or the blessing of an Idol (z). When it can be proved that God accepted of such offerings in time of the Law, then also it may be granted that he vvill own such mongrel Dedications in the days of the Gospel.

5. Things dedicated to God, vvithout his order and allowance, is a laying aside (a), and a rejecting the Commandment of God (b), and a making the Word of God of none effect (c). It is the Pharisees *Corban* (d), which they (for filthy lucre sake) taught children to plead, and thereby to break the fifth Commandment) when required to relieve aged and needy Parents. If a father demanded ought of his son, and his son answered, This is *Corban*, a gift devoted to God, therefore you must excuse me; Vows must be paid, and things once dedicated must not be recalled or aliened: This, by the Pharisees Doctrine, vvias so sacred unto God, that (if the child should be willing to pleasure his parent with some part of it) they would suffer him no more to do ought for his father or mother (e). Did Christ take this for a dedication that might not be aliened? nay, he abhorred it, and them that taught it. Such are all dedications of mens inventions and fancies, vvithout a Rule from him: And therefore to be aliened to other uses, that God may no longer be abused and provoked by them.

6. The same thing hath been for many years, and still is done every day by the greatest Censurers of the present Purchasers of Bishops Lands. Even they who now cry loudest against buying Church-Lands (because once dedicated to God) and make it high Sacrilege in others, can yet be content and quiet to hold things of the same kind (in respect of dedication) heretofore aliened from the Church. They can digest *Abby-Lands*, *Canonical Houses*, yea (which is worst) *Appropriations of Tythes* first

Num. 16. 37

Jer. 5. 26.

Deut. 13. 17

Isay 66. 3.

Mat. 7. 8.

b ver. 9.

c ver. 13.

d ver. 11.

e ver. 12.

first made by that Arch-Thief the Pope, in favour of Monasteries, and other his Creatures, who neither would nor could do service to their souls that paid them; and after their dissolution, devolved to private hands and common uses, as Bishops Lands now be.

How many Nobles and Gentlemen who now cry *Sacriledge* against present purchasers, do possess many Lands and Mannors of Bishops, alienated since *Henry* the Eighth began to destroy *Monasteries*? Many of those Lands being by secret (I say not *Symoniack*) compact between Petitioners for Bishopricks, and their friends at Court, exchanged, or otherwise aliened from the Church, upon condition to get such a Bishoprick for them. If any doubt hereof, it is his ignorance; let him but inquire into that one Bishoprick of *Bath and Wells*, and he will finde, that since the 30th of *Hen. 8.* the Mannors of *Wokey, Blackford, Compton-dando, Congersbury, Yaton, Chew, Wike, Puckle-Church, Wester-Leighe, Hampton, Claverton, Cranmore, Ever-Chritch, Kigsbury, Chard, Wellington, Lidford, Compton Parva, and Chedder* (to omit many *Appropriations, Hundreds, Burroughes, Farmes, &c.*) have been alienated from that Church, before ever the late Parliament seised the rest; and are to this day held by Lay-men, to their own private uses, without scruple or blame. Yea, this is not the first time that the Mannor of *Wells* hath been alienated from the Church; for in *Hen. 8.* it was aliened by the Bishop himself to him that was afterwards *Earl of Hertford and Duke of Somerset*; and by him held without clamor, until by his attainer it eschered to the Crown, and thence returned to the Bishop again.

Nor is there any scruple made of purchasing those many *Canonical Houses* in *Wells*, which formerly belonged to the Church; yet, were a part of the *Bishops Land and Mannors of Wells*, and are held of the same Mannor unto this day; yet none of the Possessors hold it to be any fault in them, while some yet condemn the same thing as *Sacriledge* in *Doctor Burges*, albeit he performeth more service in that Church than any Bishop that ever sate there.

Let not such think to wash all off, by saying these were things done before their times, which they could not help; for, they can without scruple enjoy, yea purchase them. An accessory in sin long before committed, must share with the principal in punishment (f). And this all acknowledge to be a truth; *Non firmatur tractu temporis quod de jure ab initio non subsistit*. No house will grow strong by long continuance, whose foundation is on the sand. Time will never make that to be no sin, which from the beginning was sinful. They therefore that thus censure him, are themselves *inexcusable*: for wherein they judge him, they condemn themselves, because they that judge, do the same things (g). If this satisfie not, yet it behoves such Centurers to be quiet; and to let him that is without sin, cast the next stone at the Doctor.

Rom. 14. 4.

Who art thou that judgest another mans servant? to his own Master he standeth or falleth.

THE

f 2 Command-
ment.

Rom. 2. 1.

THE SECOND PART.

Declaring
The *Differences* between Dr. *Burges* and the
Corporation of Wells,
With
The *Necessity* thereof, on his part.



Doctor *Burges* is not (in common repute) so weak, as not to apprehend the great disadvantage which a single man hath in encountering a *Corporation*, wherein there are ever some Spirits that pretend to see further into, and to be more zealous of the good of that Community, than the rest, thereby to engage them in Controversies; and that others of them, gaining thereby, will not fail to add fuel to the fire, when once the coles are kindled between a vvhole Body, and any one particular man that shall be so hardy as to oppose them, (although never so justly) concerning any thing unjustly done by them. Inasmuch as it is taken for a maxime among such, (if they have a minde to transgress) that many subtile heads combined, a common Purse (to make great Friends, and to impoverish and weary a single Adversary;) and the difficulty of obtaining Justice against them, is enough (in their conceit) to justify their greatest frauds and oppressions; and to proclaim and doom him the only Offender, that dares to seek Justice against them. This hardens them in their wickedness, and draws into common obloquy and reproach, any one that (being necessitated to maintain his own rights) shall presume to question their foulest encroachments.

This, the Doctor hath found, in prosecuting the *Differences* here after related. Wherein, he first appeared, in behalf of the Parliament, having discovered sundry gross vvrongs done to the State by some Agents for the *Corporation of Wells*. Afterwards, he vvas enforced to pursue the same contest, in behalf of himself, being by the *Contractors for sale of Bishops Lands*, and by the then *Committee of Parliament for removing Obstructions* in sale thereof, drawn to purchase the *Mannor of Wells*, and what else there then remained unfold; vvvhich they promised he should quietly enjoy.

Hence sprang all the *Differences* between him and that *Corporation*, vvvhich (to his great grief) have been sadly ventilated almost ten yeers,

notwithstanding his utmost endeavours to compose them in vvays of love and peace. The first Rise and Sum of all vvhich, is now expofed to publike view, that they vvho have been abused by falfe and fcurlious clamors againft him, may now be better able to judge vvhich Party hath indeed been in fault, in caufing or occafioning the beginning and continuance of thofe unhappy Contentions.

In publishing vvhereof, it vvill be requifite to advertife, that it is not here intended to rip up all the particular affronts and injuries done to the Doctor; but only to fet forth: 1. What vvvas the Original of all the Differences between them; and how that hath been fince profecuted. 2. That what is after alledged in reference to any former Mayors of Wells, is not imputed to their own perfonal averfnefs from peace, but as they have been the mouth of the reft that have put them upon vvhat they have fpoken or acted herein. 3. That albeir this Narrative often mentioneth the vvhole Corporation, yet it is not meant to involve all alike in the fame Charge; fome of them being better inclined to reafon and peace. 4. That the Contractors vvvere the firft Plaintiffs in this Caufe; not the Doctor. He vvvas only forced afterwards to undertake the fame bufinefs, upon the fame grounds and evidence vvhich the Contractors had done before: for that the Corporation refufed to make good the engagement of their Agents made not only to the faid Contractors and Committee of Parliament; but, to the Doctor himfelf, under their Hands and Seals, after he had been drawn to be a Purchafer at Wells.

For the better understanding of the whole bufinefs, take notice, That an Agent for the Corporation contracted for certain Royalties, in Decemb. 1647. but perfected not the Conveyance until the 22 of March then next following; and that Dr Burges did not purchafe until March 16, 1648. and that then he bought many things (fome of them being of great value) vvhich the Corporation by general words, and by furprife and fraud had before gotten into their Conveyance, vvithout contracting for them at all. How, and by vvhat meanes they did it, is firft to be laid open; and then the courfe ufed to right the Common-Wealth, and the Doctor therein.

After the Surveyors had made a return of their Survey of the Mannour, Burrough, and Hundred of Wells, one John Cafebeard, a Burgefs of Wells, took upon him at firft (vvithout Order) to treat vvith the Contractors for fale of thofe Lands, in the name of the Corporation of Wells, for the purchafe of certain Royalties of the late Bifhop of Bath and Wells; upon vvhich the faid Contractors granted this Warrant following.

Die Veneris 26 Nov. 1647.

At the Committee of Contractors for fale of Bifhops Lands.

Warrant of a
Particular.

At the request of John Cafebeard Gent. on the behalf of the Mayor and Communalty of Wells, It is this day Ordered that the Register
do

'do forthwith make forth, and fairly engross in Parchment a particular
'of the Royalties and Hundred of *Wells* and *Wells-Forum*, with the Fairs
'of *Priddy* and *Binegar* in the County of *Somerset*, parcel of the posses-
'sions of the late Bishoprick of *Bath* and *Wells*, whereupon we may pro-
'ceed to make sale thereof. And that he do deliver the said particular
'examined and signed under his hand, unto us, or any six or more of us, ac-
'cording to the Ordinances and instructions of both Houses of Parlia-
'ment in that behalf made and provided.

This was the only Warrant granted for a particular. Two days after
which, the Corporation of *Wells* wrote a Letter to *Cafebeard* : of which
this is a true Copy.

Mr. Cafebeard,

'**H**AVING by your means received information that the *Bishops* The Towns
'lands are now upon sale ; and that you out of your good affe- Letter to
'ction to the Corporation, have had some conference with the *Mr. Cafebeard.*
'Trustees concerning the Royalty of *Wells* to be purchased by the Cor-
'poration : We forthwith upon such intimation, met together at the
'*Chequer*, and did there unanimously consent, that the purchase should be
'prosecuted with effect : and truly could not but much resent your love
'to, and remembrance of the Corporation in this kind. And we thought
'fit to give you advertisement what our desires were to purchase, and
'what the burdens were upon it, that we might with more certainty
'proceed in the purchase.

'We desire to procure and buy the Royalty of the Town and Hundred
'of *Wells* and *Wells-Forum*, that is to say, the Baylywick of the Town,
'the Court of Record, three Weeken-Court, and Leet or Law-day for
'the Town, the 3 Weeken-Court or Law-day for the *Forum*, the four
'Fairs in the Town, and *Binegar* and *Priddy-Fairs*, and the chief rents
'(if they be incident unto the Law-day) and Felons goods and Clerk
'of the Market, &c. and Return of Writs, and such Issues and Amerce-
'ments as fall upon any Towns-men, whether in our Sessions, or in the
'County, which are granted by the *Letters Patent of Edw. 4.*

For the profits of the Market and four Fairs within the Town, you
know it is received, and doth belong to *Mr. Gorman the Bayliff, who hath a*
Patent thereof for his life and young Crosses.

'For the three Weeken-Court, and Court of Record, the profits there-
'of belong to the Steward, except the Benefit of forfeitures, and other
'small inconsiderable things. And for the profits of *Binegar* and *Priddy-*
'*Fair*, it is received by the Bayliff of the Hundred ; which after disbur-
'sments allowed, the remainder cannot be great.

'So as the mean present profit must arise out of the Law-days, and
'that chiefly upon amercements, wherein extremity may not be used
'(we being the more desirous to make this purchase, that we may be

thereby be enabled to shew mercy, and not to use rigour.)

Thus much in particular we thought fit to inform you, that, as occasion should be offered, you might the better give satisfaction to the Trustees, and extenuate the price.

We have made bold to write to Mr. Walker and Mr. Long, our Burgeses, about this business, whose assistance and furtherance herein, we presume will be readily extended to us upon all occasions. We have also written to Mr. Morgan, for his best assistance, who, we know, will be a great furtherer in any thing that concerns the good of the Corporation; and therefore shall desire you by all means to apply your self unto him for his aid and direction; and presently upon receipt, to shew him this Letter, that he may see our desires herein, before you conclude.

We shall be glad to receive some quick notice from you what the lowest price of the purchase desired may be, and when to be paid, that we may the better know what money to raise, and how to be able to make payment accordingly.

You have herein our desires, and we shall presume on your care and furtherance; which if it take effect, will be a grand-work for the Corporation, and will not be forgotten by us,

Your very loving friends,

Wells, Novemb. 28. 1647.

PostScript.

We dare not meddle with the profits of Mendip, it being too high a purchase for our purse.

For our very loving friend
Mr. John Casebeard, at
his lodging.

Tho. Salmon Maior.

Barth. Cox.

William Baron.

Thomas Jones.

Rob. Rowly.

Rich. Casebeard.

Joseph Gallington.

William Vest.

Richard Frier.

Robert Hill.

Rob. Hurman.

John Nibler.

Hug. Mercfield.

Henry Baron.

Jos. Plummer.

Will. Atwel.

Robert Hole.

John Cox, &c.

This Letter, John Casebeard, being by the Contractors Ann. 1648. complained against to the Committee of Parliament for removing of obstructions; produced to that Committee. Besides which Letter, the Corporation sent up to London this Letter of Atturmy following.

Letter of Atturmy. Dec. 4. 1647.

Now all men by these presents, that We the Maior, Masters, and Burgeses of the City or Burrough of Wells in the County of Somerset, have constituted, ordained, and appointed, and by these presents do constitute, ordain, and appoint, our trusty friends, Robert Morgan Gent. one of the Masters of the City or Burrough of Wells in the County of Somerset, John Cox one of the Capital Burgeses of the same City or Burrough, and John Casebeard Gent. one of the Burgeses of the same City or Burrough, to be our true and lawful Attornies, for us, and in our names, to treat, contract, and agree with the

Honour

‘Honorable *Committee of Contractors* for the sale of all *Bishops* lands with-
 ‘in the Kingdom of *England* and Dominion of *WVales*, for the purcha-
 ‘sing of the Inheritance of the Royalty of the Liberty of the City or
 ‘Burrough of *WVells*, as also of the hundred of *Wells* and *WVells-Forum*,
 ‘and the two Fairs of *Priddy* and *Binegar* within the said Hundred. Here-
 ‘by ratifying, confirming, and allowing, all and whatsoever our said At-
 ‘turnies, or any two of them, shall do for us in the premises. In witness
 ‘whereof we have set our Seal of Maioralty of the said City, the fourth
 ‘day of *December* in the 23 yeer of the Reign of our Sovereign Lord
 ‘*Charls* by the Grace of God of *England*, *Scotland*, *France* and *Ireland*
 ‘King, *Defender of the Faith*, &c. And in the yeer of our Lord 1647.

Thomas Salmon Maior. *Barthol. Cox*. *Tho. Jones*. *WVilliam Baron*.
WVill. WVest. *Richard Casbeard*. *WVill. Smith*. *Robert Hill*. *Robert Tho-*
mas. *John Web*. *Hugh Mersfield*. *William Hiat*. *Robert Hurman*, *Robert*
Hole. *William Atwel*. *Joseph Gallington*. *Joseph Plummer*. *Josias Cook*,

This Letter of Attorney, which inabled any two of the therein named
 Attornies, to Contract, being received; one of them adventured single
 upon the work, and Contracted as followeth.

Die Mercurii 15 Decem. 1647.

‘**A** Greed with the Contractors for the Purchase of the Royalties of *Wells*, *Contract*
 ‘*Wells*, and *Wells forum*, in the County of *Somerset*, mentioned in
 ‘the Particular thereof, delivered in under the hand of the Register, and
 ‘also for the Bayliff-wick of the Town and *Forum* of *Wells*, aforesaid,
 ‘with all and singular, the Fairs, Markets, Clerkship of the Marker, and
 ‘Profits thereof, and all other things to the said Bayliff-wick pertaining.
 ‘And also for the Office of Stewardship, for the Town of *Wells* aforesaid;
 ‘and all Profits and Advantages thereunto belonging, mentioned also
 ‘in the said Particular, at the rate of Twenty Years Purchase, for the pre-
 ‘sent improved yearly values of all the said premises, amounting in *1640* to
 ‘the sum of nineteen pounds and ten shillings in Possession. And for an
 ‘improvement of value upon the said Bayliff-wick, after the determination
 ‘of three Lives in being, at the rate of four yeers Purchase, for the said
 ‘increase of value, being five pounds, thirteen shillings and four pence in
 ‘Reversion. I say, agreed accordingly on the behalf of the Corporation
 ‘of *Wells*,
 Per me, *John Casbeard*.

This Contract, so refers to the first Particular, that without sight of
 that, no man can say punctually what was purchased: but rather what
 not was purchased, till that particular be produced. And whereas the
 Contract mentions the Bayliff-wick to be but 5*l.* 13*s.* 4*d.* improvement,
 after three Lives in being, it agreeth not with the *Survey*, which saith it
 is 40*l.* per annum.

This

This Contract lay (as the Contractors thought) sleeping, from the 15 of December, till the 15 of March following. In which time, the Agents of *Wells* slept not; for they being told by somebody, that if they could but get the first Particular out of the Registers hands, and draw up and return another in the room, they might get much more into their Purchase and Conveyance, then they had indeed Contracted for. Which some, employed in this Purchase, accordingly did. And in room of the first Particular, the Particular here following (without any new Contract or warrant from the Contractors) was thrust in, and brought to the Contractors (March 15.) to signe. The Contractors, being by Ordinance of Parliament to look no further then to the Registers hand affixed to the Particular, for their Warrant to signe the Contract made thereupon, they then used not to have the whole read again, but onely the sums for the Purchase to be paid; how much in Possession, and how much in Reversion, and how many yeers Purchase for both. Which done, they signed it, and gave their Warrant to the Trustees, for passing a Conveyance accordingly.

The last Particular, which the Contractors signed in March 1647. ran thus:

*Parcel of the Possessions of the late Bishoprick of Bath
and Wells.*

Com. Somers.
The last particular for the Corporation.

THe Royaltie of the City or Burrough of *Wells*, and of the forraine Fee, Bayliff-wick, or Hundred of *Wells*, commonly called *Wells*, and *Wells Forum*, with the Rights, Members and Appurtenances thereof, in the County of *Somerset*, together with the said Hundred. And also all Courts, and Courts of Record, or Court and Courts of Pleas, Hundred Courts, Views of Frank-Pledge, and whatsoever to view of Frank-Pledge appertaineth, Court Leets, Courts Baron, and other Courts, to be holden from three weeks to three weeks, or otherwise, holden, or to be holden from time to time, within the City or Burrough of *Wells*, and the Liberties thereof, or within the Hundred of *Wells* and *Wells Forum*, aforesaid. [Together, with the Guild Hall, and the ground and soil thereof, wherein the said Courts are usually holden. And the prison or prison House thereunto adjoining. And all Fines, Issues and amercements, requisites and profits, as well at the said Courts, and every of them, as at the Sessions of the Peace, holden from time to time at the City or Burrough of *Wells* aforesaid. And also, all Fines for License of Alienation, and post-Fines, and all other Fines, Forfeitures, Issues and Amercements at the Assizes or elsewhere, before whatsoever Judge or Justices, either in the High Court of Chancery, the Court of Kings Bench, or Common Pleas, or of Exchequer, due and payable, or happening from time to time to be due and payable by any person or persons within the County of *Somerset* aforesaid.] And also the

Bay-

Bayliwick and Office of Bayliff of *Wells*, and of the Hundred of *Wells*
 and *Wells-Forum* aforesaid, And of the said Liberty of the said Bishop
 of *Bath* and *Wells*, within the said County of *Somerset*. And also full
 Power and Authority to keep the aforesaid Courts, and every of them,
 and the accustomed Writs and Process of the aforesaid Courts and
 Courts of Record, to be from time to time issued and awarded, To
 bear Test in the name of the Maior of the said City or Burrough for the
 time being successively. And to be kept by the Maior, or Recorder, or
 by the Steward of the said Maior, Masters and Burgeses of the said City
 or Burrough, and their successors for the time being, and such other
 Officers of the said Maior, Masters and Burgeses and their successors for
 ever, to be from time to time attendant upon the said Courts, and to
 serve and execute the Writs and Processes of the said Courts, and o-
 ther matters and things in the said Courts (as were usually attendant
 in and upon the said Courts in the time of the late Bishops there.) And
 also power to distrain for all sums of money due and payable for or by
 reason of the said premises. And all other remedies and means for the
 having, receiving, levying or enjoying the premises or any of them. And
 all fairs with their appurtenances. [And all Markets holden and kept,
 and to be from time to time holden and kept within the said City or
 Burrough of *Wells*, or within the said Hundred of *Wells* and *Wells-Forum*,
 or any other part thereof.] And all Tolls, Customs, Piccage, Stalage
 and other benefits, profits, commodities and advantages, happening or
 coming, arising or growing, for or by reason of the said Fairs and Mar-
 kets or any of them. And also all Eschetes, Waives, Estrays, *Deadlands*,
 Goods and Chattels of Felons, Felons of themselves, and of Fugitives,
 out-lawed persons, and of persons put in exigent, happening or coming
 within the City or Burrough of *Wells*] or within *Wells-Forum* afore-
 said, or the Liberty or Liberties of the said late Bishop of *Bath* and
Wells within the said City or Burrough of *Wells*, or *Wells-Forum* aforesaid.
 And also the Office of Clerk of the Market, and whatsoever to the said
 Office appertainerth, the correction of the Assize of Bread, Ale, and
 Beer, and other Victuals, and the Tryal of all Weights and Measures.
 Together with all Fines and Forfeitures happening by reason of the
 same within the Liberty and Liberties aforesaid. And also all Streets
 and ways, and the ground and soyl of the Market place in the said City
 or Burrough. AND also all other Royalties, services, franchises, Li-
 berties, Priviledges, immunities, profits, commodities, advantages and
 emoluments whatsoever, of what nature or quality soever, within the
 said City or Burrough of *Wells*, and within the said Hundred of *Wells* and
Wells-Forum, or any part or parcel thereof, unto the late Bishop of *Bath*
 and *Wells*, or any other Bishop there in right of the late Bishoprick of
Bath and *Wells*, at any time within ten years before the beginning
 of the Parliament of *England* now assembled at *Westminster*, belonging
 or appertaining.] All which premises are of the present yeerly value
 of nineteen pounds ten shillings. The improvement of the Bayliwick
 after

after three lives in being *per annum*, five pounds thirteen shillings four pence.

* Not so.

* This Order was never produced, but denied by the Contractors.

*This particular is grounded upon a Survey * taken by Benjamin Avry Gent. and others, the sixth day of April 1647. and is made forth, examined, and Signed by order of the Contractors of the sixth day of December 1647.**

H. Elsyng Register.

Contracted for 15 Dec. 1647.

Not so.

The Premises above mentioned are contracted for and agreed to be sold unto John Casbeard Geht. on the behalf of the Corporation of Wells in the County of Somerset.

* This particular is rated in fee-simple for the said Corporation of Wells, at twenty years purchase for the present yearly value of the aforesaid Royalties of Wells and Wells-Forums, being nineteen pounds and ten shillings in possession; and of four years purchase for the improved value of the said Baylywick after the determination of three lives in being; being five pounds thirteen shillings and four pence in reversion. According to which rates and values, the whole purchase-mony payable into the Treasury, upon Sealing the Assurance, amounts to the total sum of four hundred and twelve pounds thirteen shillings and four pence.

* Whereof one full moyety to be paid in to the Treasury upon Sealing the Assurance, the other moyety is to be paid at the end of six months thence next ensuing. For payment of which second moyty, security is to be given to the Treasurers by a Lease to be made of the Premises hereby contracted for, for fourscore and nineteen years. Nevertheless, if the whole purchase-mony shall be paid in to the Treasury upon Sealing the Assurance, interest is to be allowed for the second moyty for six months, according to the Ordinance of Parliament in that behalf.

Henry Elsyng Register.

In Attestation of the Contract and Agreement above mentioned, We the Contractors whose names are subscribed, have hereunto put our hands, this fifteenth day of March, Anno Domini 1647.

John Blackwel.
Tho. Ayres.

Ja. Russel.
Richard Turner.

Edw. Cresset.
Ti. Middleton.

THese are to desire and Authorize the Trustees named and appointed in and by several Ordinances of both Houses of Parliament for the sale of the Lands and Possessions of the late Arch-bishops and Bishops, or any five or more of them, to draw up and Seal a conveyance of the Premises hereby contracted for, unto the Maior, Matters and Burgesles of the City or Burrough of Wells in the said County of Somerset, and their successors for ever, according to the Contract and Agreement above mentioned. To have and to hold

hold unto the said Mayor, Masters and Burgeses of the said City, or Burrough of Wells, and their Successors for ever. As amply as the said Trustees by the several Ordinances of Parliament for the sale of the Estates of the late Archbishops and Bishops ought to hold and enjoy, and are enabled to convey the same. And also discharged of all demands, payments and incumbrances, as amply as is ordained by any the said several Ordinances of Parliament made and provided in that behalf. Dated this 15 of March, Anno Domini 1647.

John Blackwel.
Tho. Ayres.

Ja. Russel.
Richard Turner.

Edwa. Cresser.
Ti. Middleton. —

According to which Warrant, the Trustees sealed a Conveyance of all the Premises to the Mayor, Masters and Burgeses of Wells aforesaid, word for word as the same is above expressed in the said forged Particular. Which Conveyance bears date, Mar. 22. 1647. and being enrolled in Chancery, needs not here to be recited. By vertue whereof the Corporation have seised and enjoyed all and every the premises, and sundry particulars belonging to the Mannor of Wells, and of Westbury too, because within the Hundred of Wells.

About July 1648. Doctor Burges (having no hope to get his money lent to the Parliament) in kinde) resolved to take it out in Bishops Linds. This being made known, some Parliament-men and others used all importunity to draw him on thereunto. Whereupon several Purchases were propounded to him; as Witney in Oxfordshire; Munton-Early in Wilts. Thornton-le more in Lincolnshire; Another place in Warwickshire, Paddington in Middlesex, Banwel in Somersetshire, &c. In every of which, some persons of note got before him.

How Dr. Burges
fell into these
bryars, and
espoused the
States quarrel
with that
Corporation.

At length, the same Parties that had propounded those other particulars, put him upon buying the Mannor of Wells; to vvhich he vvas very hardly drawn, partly because many peeces thereof had been before sold by parcels to others, which might occasion differences to an after Purchaser, and partly by reason of other great disadvantages that accrew to him that should purchase a Bishops Seat; but chiefly, because he saw it would cost much more than all his moneys lent to the Parliament. Howbeit, through the incessant perswasions of friends, he did yeeld to make that purchase. The manner of his Proceeding in it, is here first briefly set down upon Oath made by a then Parliament man, that vvas very active for the State in discovering the frauds of the Agents of the Corporation of Wells, as he vvas a Member of that Committee of Parliament for removing Obstructions, who ordered him so to do; And then followeth a more full Narration of the vvhole.

The Oath is this.

1. Affidavit of
Col. Harvy.

- ‘ Colonel *Edmond Harvie* of *Fulham* in the County of *Middlesex*, maketh Oath, That he, in the year 1648, understanding that
‘ *Dr Cornelius Burges*, having lent several sums of money to the then
‘ Parliament upon the *Publick Faith*, had some desires to take it out in
‘ the purchase of *Bishops Lands*; and, requesting this Deponent to make
‘ some purchase thereof for him, this Deponent acquainted the Con-
‘ tractors for sale of the said *Lands*, and some other persons of quality
‘ therewith. And it being conceived that it would be for the service of
‘ the Parliament to engage Ministers, and especially the said Doctor, in
‘ the purchase of those *Lands*, it was thought fit to put him upon pur-
‘ chasing the Mannor of *Wells*, parcel of the Possessions of the late Bi-
‘ shop of *Bath and Wells*, and of all else, there, then uncontracted for;
‘ the Contractors declaring that they, having made divers sales of
‘ sundry parcels thereof before, resolved to make but one contract more
‘ for all then unfold.
2. ‘ That the Doctor being told hereof, said, he would first go to *Wells*
‘ and see it; and afterwards, wrote to this Deponent to purchase it for
‘ him. This Deponent thereupon desired a *Particular* thereof to con-
‘ tract upon. But before any *Contract* signed, the said Doctor told this
‘ Deponent, and the said *Contractors*, that having informed himself of
‘ the *Conveyance* to the *Corporation of Wells*, made almost a year before,
‘ he found that divers things now put into his *Particular*, were passed
‘ before to the said *Corporation*; and therefore he refused to *contract*,
‘ till those things were cleared; saying, he would not purchase to him-
‘ self suites in Law, instead of *Bishops Lands*; or words to that
‘ effect.
3. ‘ That the said *Contractors* taking this into consideration, and finding
‘ it to be so, they first (as this Deponent hath credibly heard) wrote to the
‘ said *Corporation* to rectifie the same in a fair and friendly way; which
‘ they not doing, the said *Contractors* Certified the same to the *Committee*
‘ of *Parliament for removing Obstructions*, as a great obstruction in sale
‘ of the said Mannor, praying their ayd for redress. Which *Committee*
‘ thereupon issued *Summons* to the said *Corporation* to answer the
‘ same.
4. ‘ That upon their appearaunce, and hearing of both Parties, that *Com-*
‘ mittee ordered the said *Contractors* to certifie more particularly what
‘ they did indeed sell to the said *Corporation*; and wherein they were
‘ surprised. Which the *Contractors* accordingly did, about the beginning
‘ of *March* 1648. as this Deponent believeth. After which, the said
‘ *Committee of Parliament* appointed some of their own number, to
‘ draw up the full state of this business, and to report it to that *Com-*
‘ mittee, that it might afterwards be Reported to the then *Parliament*, in
‘ case the said *Corporation* should not give satisfaction therein. Of all
‘ which

which the said Dr. *Burges* was to have Copies. And the said Committee and *Contractors* being together, assured him that they would endeavor to see all rectified, and reconveyed, if he would go on in the purchase of the said Mannor and premises.

That the said Dr. (as appeared to the said Commissioners) being satisfied herewith, desired this Deponent to *Contract* for the same; which he accordingly did: and the Dr. Signed the said Contract, paid in his purchase-mony, and had a *Conveyance* thereof Sealed before the 25 of March 1649. as this Deponent beleeveeth, to which he referreth for more certainty.

This Deponent further deposeth, that the Sub-Committee of the said Committee of Parliament, having drawn up and certified the State of this business to that Committee, the said Corporation in April following (as this Deponent hath heard and beleeveeth) did impower some of their Members to treat with the said Committee of Parliament, and to end the same. But, this coming to nothing, the said Committee committed to safe custody *John Casbeard*, as one of the Agents of the said Town of *Wells*: and finding yet no satisfaction, they Ordered the said Case to be reported to the then Parliament as it was, if satisfaction should not be given in one month. And this was done (as he remembereth) in or about May 1650. he being then a Member of the said Committee, but referreth himself to the said Order and Report.

That after making of this Order, a Reference was desired, and there were chosen by the said Town, or their Agents (as this Deponent beleeveeth) *Lislibone Long* Esq; (now Knight and Recorder of London) and Colonel *Dove*, for the said Town: and the said Dr. *Burges* chose this Deponent, and Major *Salway*, for him, to arbitrate and agree the same. Whereupon, out of a desire of friendly composing all differences herein, this Deponent met the said Persons; and often met with the said *Lislibone Long*, and, in the presence of some of the said parties or their Agents, did, after many Debates, two several times agree the same, with the said *Lislibone Long*, who desired that he might acquaint the said Corporation with the said Agreements before Signing; to which this Deponent consented. But afterwards the said *Lislibone Long* told this Deponent, that the said Corporation did not like the Agreements. After which, this Deponent heard nothing more hereabout from that Corporation.

Edmond Harvy.

This contains a Brief of the Business from the year 1648. to the end of the year 1652. and therefore is here inserted, that the Readers may be satisfied both with the matter, and manner of proceeding, so far forth as that *Affidavit* extendeth.

Now that it may appear he hath deposed nothing but truth, hereunto is added a more full and distinct relation of the several steps of

proceedings of the said *Contractors* and *Committee of Parliament*, concerning this business : as well as what after happened between the Corporation and the Doctor, when he coped with them upon the account of a Purchaser. Where first, take notice that the Doctor, having been at *Wells* to take view of what was there to be sold, had some conference with the then Maior, who refused to part with any thing comprised in their Conveyance. The Doctor therefore at his return to *London*, told the *Contractors* that he had no hope to recover any thing back which by words the Town had gotten into their Conveyance. The *Contractors* thereupon wrote this ensuing Letter.

Contractors
to the Corpo-
ration.

Gentlemen,
WE find upon the Sale of the Mannor of *Wells* (whereof you never bought any thing) that there is a very great Obstruction in perfecting the conveyance of the said Mannor, by means of sundry words which over and above the Contract first made with us, you have by Counsel gotten into your Conveyance, to the surprisal of this Committee, and the prejudice of the State. We are very unwilling to impute any thing to your Corporation but what is just and worthy of it, but rather apprehend it at present to be a peece of the skill of your Counsel, to give you words enow ; and, without due limitations. We therefore desire you to send up some of your Members forthwith unto us, with full power to clear all things that are now doubtful, and to quit whatever appertaineth to the Mannor of *Wells* ; or, to any other Mannor of the late Bishop of *Bath and Wells*. The interest of the State (to which we are sworn) requires us to press you that this may be done by you before the thirteenth day of *Decemb.* next. Otherwise we shall be enforced to take such speedy course herein, as to justice, and equity shall appertain, in the pursuance of the Trust of

Gurny-House, 10 Nov.
1648.

Your very loving friends,
Ti. Middleton. *VVill. Roberts.*
John Blackwel. *Rob. Fenwick.*
Tha. Ayres. *Edw. Cresset.*

To our very loving friends, the Maior,
Masters, and Burgesses of *Wells* in
the County of *Somerset*, These.

This Letter being delivered, and taking none effect, the *Contractors* Certified to the *Committee of Parliament* for removing of *Obstructions*, as followeth :

To the Honorable, the Committee of Lords
and Commons for removing of Obstru-
ctions in the sale of Bishops Lands :

The humble Certificate of the Contractors for Sale of the said Lands.

‘**W** Hereas at the suit of the Maior, Mistres and Burgessees
‘of *Wells* in the County of *Somerset*, we did, 26 *Novemb.*
‘1647. grant an Order for the making forth a Particu-
‘lar of the Liberties and Baylywick of that Burrough, *WVells-Forum* and
‘*WVells* Hundred (who have ever been distinct from the Mannor of *WVells*)
‘late parcel of the possessions of the late Bishop of *Bath* and *WVells*, and
‘upon Treaty did Contract with their Agent for the premises only, but
‘not for any part of the Mannor of *WVells* :
‘Now so it is, that when we came to Sign that Contract, and a *VVar-*
‘rant to the Trustees for the drawing up a Conveyance, another *Parti-*
‘cular was presented to us, with the said Contract and *VVarrant* entred
‘thereon. In which *Particular* divers general words being by the Coun-
‘sel inserted, without due limitations (the extent whereof, partly
‘through multiplicity of business lying upon our hands, and partly also
‘through the pressing importunity of their Counsel hastening us for a
‘dispatch, we did not so well apprehend) we did set our hands
‘to the said Contract and *VVarrant* for drawing up a Conveyance
‘according to that *Particular* : but, with no purpose to pass any thing
‘pertaining to the Mannor. *VV*hereupon their Counsel took advan-
‘tage so to have the Conveyance drawn up, as now appears to be
‘greatly prejudicial to the State : Having in it sundry general words,
‘which (in time) possibly may be construed to take in so much of the
‘Royalties and profits of the Mannor of *WVells* (of which we never sold
‘them, nor they desired to buy any thing) as may amount to a conside-
‘rable value above what they paid for their purchase, beside much wrong
‘to the Mannor, and to the purchaser thereof. Yea, when we came to sell
‘the Mannor, it appeared to us that we have been so far surprized in the
‘said *Particular* and *Conveyance* passed to the said City, that we cannot
‘perfect any *Particular* of that Mannor to the satisfaction of a Purcha-
‘ser, until the Conveyance passed to the said City be first reviewed and
‘rectified. By means whereof, the State suffers dammage to a great va-
‘lue.

The first Cer-
tificate of the
Contractors a-
gainst the
Corporation.

It hath been
said in excuse
of this change
of the *Particu-*
lar, that no-
thing is more
ordinary, then
to alter the
Particular, to
satisfie a Pur-
chaser: but this
was never to be
done but by
special Order
of the *Contra-*
ctors them-
selves; who, in
this Case made
no Order at all.
Nor did they e-
ver give war-
rant to alter, af-
ter a Contract
made: or to put
in any words
that might car-
ry more then
was really to be
paid for.

‘So soon as this was discovered, we desired the Trustees in *September*
‘last, to direct their Order to the Surveyors of that Mannor, forthwith
‘to enquire and certifie what was peculiar to the Mannor, distinct
‘from the Burrough and other the premises. Upon which the Survey-
‘ors did their endeavors, and dealt with that Corporation to state the
‘same, but received a dilatory and unsatisfactory answer. Whereupon
‘we did, on the tenth of *November* last, write a more pressing Letter to the
‘said

‘ said Corporation, to let them know they had abused not us alone, but the
 ‘ State also ; requiring them to send up some of their Members fully
 ‘ impowred, to clear all doubts, and to disclaim whatever appertaineth to
 ‘ the said Mannor, before the 13 of this month : which was delivered to
 ‘ the Maior upon the 18 of November last. To which the Maior hath
 ‘ sent no other answer, but a desire to be excused till the next Term, pre-
 ‘ tending they had not their Counsel by them ; not considering how
 ‘ much the State is prejudiced thereby, and that it is matter of fact, not of
 ‘ Law, that is now in question : and, that they might have had their own,
 ‘ or any Counsel present, in case they had needed Counsel. We there-
 ‘ fore in discharge of our Trust, held it our duty timely to represent this
 ‘ to your Honors : Humbly submitting it to your grave consideration.

*WWilliam Roberts. Edw. Cresset. Ti. Middleton. Robert Fenwick,
 John Blackwel, Thomas Ayres, James Russel.*

Gurny-House, 22 Decemb. 1648.

Upon consideration had of this Certificate, the said Committee of Parliament issued an Order of Summons, Decemb. 28. 1648. Requiring the said Maior, Masters, and Burgesses to attend the Committee, by themselves or by some others sufficiently instructed herein, within ten days after notice thereof, &c. to answer the premises ; and hereof they were not to fail.

Order of Feb. 16
 1648.

Feb. 16. 1648. they appeared by some of their members and Counsel ; and being heard, a Sub-Committee was appointed to examine the whole business at Gurny-House, and to State and report the same upon

Order of Feb. 27
 1648.

Wednesday following. But this being not done, The Committee resumed the matter upon the 27 of the same Month, and then it was Ordered that the Contractors should forthwith more particularly certify what Royalties, Hereditaments, Liberties and appurtenances of the possessions of the late Bishop of Bath and Wells they intended to sell unto the Town of Wells, and for what sum. And likewise whether they did intend by any general words after the first Contract Signed by the Agent for Wells, to sell unto the said Town any thing more then was comprehended in their Order of Contract and first Particular and Contract Signed by the said Agent ? And whether any thing so sold unto the said Town, be any part or parcel of the Mannor of Wells, or of other the Possessions, Hereditaments, or Royalties belonging to the said Mannor ? And, if any ; what Possessions, Hereditaments or Royalties belonging to the said Mannor, they so sold.

This Order being transmitted to the Contractors, they certified as followeth :

To the Right Honourable the Lords and Commons for removing of Ob-
structions in the Sale of Bishops Lands.
 The Humble Certificate of the Contractors for the sale of the said Lands.

The Contractors
 2. Certif. Mar.
 7. 1648.

IN pursuance of your Honours Order of the 27 of February last,
 touching *VVells*, we do humbly certifie as followeth :

‘ In the first Particular, the things

‘ brought in amount to 25 l. 03 s. 04 d. per annum.

‘ The things in the Survey valued and contained in that Particular, do
 ‘ make up that sum. Which things are these, viz.

‘ The Royalty of *VVells-Forum*, within which are two *Fairs*, to wit, of

‘ *Priddy* and *Binnegar*, valued in the Survey, at the yearly

‘ sum of 01 l. 10 s. 00 d.

‘ The Collection of certain Post-fines

‘ and Amercements issuing out of the Ex-

‘ chequer, called the *Green-wax*, within

‘ the Liberty of the said Bishop, valued

‘ at the yearly sum of

‘ The Leets or Law-days within the

‘ City of *VVells*, and every week a Court

‘ of Record, and every three weeks a three

‘ weeken-Court, valued in the Survey at

‘ the yearly sum of

‘ The four *Fairs* in *VVells* (the Profits

‘ whereof go to the Bayliff for three lives

‘ yet in being) valued at the sum of

‘ The whole sum for this Purchase at 20

‘ yeers for the 19 l. 10 s. in possession, and

‘ for 5 l. 13 s. 4 d. after 3 lives, at four

‘ yeers purchase, amounts in all to

‘ But we certifie, that the Hundred was included in the nineteen

‘ poundsten shillings per annum in possession. And that the Markers

‘ were thrust into the first Particular, as valued under the five pounds

‘ ten shillings four pence for the *Fairs* in *VVells* ; which we now find to

‘ be a mistake, and surprize. The said Markers were severed from the

‘ *Fairs*, in the Survey, and not valued, though valuable.

‘ VVe also certifie, that being informed by *Casbeard* that the Bayly-

‘ wick contained nothing more then is comprehended in the Particulars

‘ here above specified (unless what is made out of the Bayliffs labour)

‘ upon that ground only, we did admit the Baylywick to be put into the

‘ said Contract ; wherein we also find our selves mistaken, and surprized,

‘ it being of greater value and extent.

‘ VVe did likewise intend to sell to the said Town, all *VVaives* and

‘ Strays, Felons goods, &c. (as in the Survey) within the said Town,

‘ and *Forum*, belonging to the said Town or Burrough, and *Forum* only.

And

}	1.
	10. 00. 00.
}	1.
	08. 00. 00.
}	1. s. d.
	05. 13. 04.
}	1. s. d.
	412. 13. 04.

‘ And the *VVays* and *Streets* mentioned in the said *Particular*, were no
 ‘ otherwise intended by us to be sold unto them, but in reference to the
 ‘ *Fairs*, and *Market place* only.

‘ As for the *Guild-Hall* and *Prison*, we neither did, nor could intend
 ‘ to sell these unto them, they being not at all in the *Particular*, by
 ‘ which we contracted with the *Town*. And how they came in after-
 ‘ wards, we do not know, they being not then returned in the *Survey*.

‘ Other then the *Particulars* hereabove specified, we never intended by
 ‘ any words general or special, to sell them any thing (although within
 ‘ the said *Town of VVells*, or *Hundred of VVells* and *VVells-Forum*.) Nor
 ‘ do we know that those things are any part of the *Mannor of VVells*; or
 ‘ which, or of any other *Mannor*, we never meant to sell them any thing.
 ‘ Only we intended that, as on the one side the *Corporation* should be
 ‘ free from the *Lord* of the *Mannor*; so, on the other side, that they should
 ‘ have nothing to do with the said *Lord*, or with any of his *Tenants*, or
 ‘ with his or their *Possessions*, by way of *Jurisdiction* over him or them, by
 ‘ vertue of their said *Purchase*.

Gurney-House, 7 *VVill. Roberts*, *Ti. Middleton*, *Rob. Fenwick*, *Ja. Russel*.
Mar. 1648. *John Blackwel*, *Rich. Turner*, *Thomas Ayres*.

This being certified, It was Ordered that a Sub-Committee should draw up a Report of the whole business, to be by that Committee Reported to the Parliament, in case the *Town of Wells*, (some of them confessing the truth of that Certificate) should not forthwith relinquish and reconvey the residue unduly thrust into their Conveyance. And then the said Contractors, and Committee of Parliament pressed *Dr Burges* to go on with the purchase of the *Mannor of Wells*; which he accordingly did. For on the 16 of *March* then instant, he contracted for the *Mannor of Wells*, and for whatever else was then unfold that belonged to the late *Bishop of Bath and VVells* in or about *VVells*, in right of his said *Bishoprick*.

But before the Contract was signed, Colonel *Web* came to the Contractors with a Message from the Trustees, to desire them to beware what they did in selling the *Mannor of Wells*, and what else was the *Bishops* there; for that those Trustees were informed that there were divers things belonging to the said *Bishop* in and about *Wells*, that were not surveyed. Doctor *Burges* then desired him to instance what those things were; but none could be given. Whereupon the Doctor, having before met with some, &c. that, so soon as they heard he was about that purchase, sought to deter him from it, he took it to be some Artifice of theirs, to hinder his present proceeding. Therefore he first appealed to the Contractors and Register, whether they could upon a bare suggestion, refuse to sign a Contract made according to Ordinance of Parliament? They answered, *No*.

Doctor *Burges* then offered, that, whereas divers purchases of several things in and about *Wells*, had been made before his, if the Contractors would

would engage to allow him a Reprise for whatever should appear to be sold before, or not to be part of the premises for which he now Contracted, he would enter an engagement to them to pay for whatever more than was then Surveyed, should be after (within a fixed time then to be agreed upon) discovered, according to the rates at the *Contract* agreed upon. Provided he might have his Conveyance in such comprehensive words, as might take in all, without a new Deed of purchase. The *Contractors* consented, and sat six Moneths for the time of discovery. Dr *Burges* then signed the *Contract*, with this clause in it. On the 19 of that Moneth, the *Contractors* signed the *Contract*, which was to be absolute, according to the *Particular*, therefore they took no notice therein of this Agreement. Yet, for discharge of their Trust, they after certified it to the *Trustees*, and gave the Doctor a Duplicate thereof, subscribed with their own hands, in these words:

WE the *Contractors* vvwhose names are subscribed, do hereby Certifie, That we have taken an engagement of Dr *Burges* purchaser of the Mannor of *Wells* in the County of *Somerset*, under his hand, That in case any other Land, Tenements, Rents, or hereditaments shall vvithin six Moneths, to be accounted from the 16 day of *March* instant, be discovered, which may possibly pass by the general words contained in his *Particular*, albeit not comprised or mentioned in any of the surveys; The said Doctor shall pay for the same at such proportionable rates as he hath Contracted for other the premises. With whom also we have agreed, that a Reprise shall be allowed to him, according to such proportionable rates, for whatsoever Lands, Tenements, Rents, or Hereditaments mentioned in any of the said surveys, which at any time hereafter shall appear either to be already sold, or not to be parcel of the premises by the said Doctor Contracted for. Witness our hands this 23 of *March* 1648.

*William Roberts, Rob. Fenwick, VVill. Methwold,
Ti. Middleton, Tho. Ayres, Ja. Russel, John Blackwell.*

This Certificate being transmitted to the Trustees, the next day the Trustees sealed unto Doctor *Burges* a Conveyance of the Mannor of *Wells*, with the Rights, Members and Appurtenances thereof in the County of *Somerset*. And also all Rents of *Assise*, free Rents, customary Rents, or Copy-hold Rents, Rents seck, Rents service, Fee-Farm Rents and other Rents and yearly sums of money whatsoever, to the said Mannor and Burrough of *Wells* or either of them belonging or appertaining, &c. And also all and singular, the Messuages, Cottages, Tofes, Crosses, Mills, Houses, Edifices, buildings, Orchards, Gardens, &c. to the said Mannor and premises, or any of them, or to any part or parcel of them or any of them belonging or appertaining. OR VVHICH the late Bishop of Bath and *Wells*, or any his Predecessors in right of the said Bishoprick at

any time within Ten years before the beginning of this Parliament, or thence, had, held, or enjoyed, or ought to have held or enjoyed *WITHIN* the said Mannor and premises, or any of them.

And this they might very well do (authorized thereunto by the Contractors Warrant of March 19. 1648.) for that the Doctor had voluntarily entred into the engagement abovesaid, never put upon any other Purchaser, albeit their Conveyances ran in General words, as his did.

While this was a doing, Colonel Harvie by Order (as aforesaid) drew up the State of the whole business between the Corporation and the Contractors, to be after Reported to the Parliament (if need required) as followeth:

Col. Harvy's
Report.

1.

Certif. of Dec.
22. 1648.

THe Contractors for Sale of Bishops Lands in December last, Certified this Committee, that the Corporation of Wells in the County of Somerset, have by their Agents in their last Purchase of the Liberties and Royalties of that Burrough, and of the Hundred of Wells, surprised the Contractors, and very much wronged the State by an undue Particular drawn up without Warrant, whereby the Contractors could not make sale of the Mannor of Wells, whereof they sold nothing to the Town. And that the said Corporation refused to rectifie this in a private way.

2. Hereupon this Committee sent out an Order, Decemb. 28. 1648, summoning the said Maior and Corporation to send up some of their own members, or others fully instructed to give an account hereof within 10 days after notice. Which Order was served upon them.

Upon the sixteenth of February the said Corporation appeared by Mr. Robert Morgan, and John Casebeard, two of their members, who avowed that the Corporation had bought a great deal of the Mannor of Wells (referring to the Conveyance :) which a Sub-Committee of the Contractors (then present) denied.

It was then Ordered that some Members of that Committee should examine all papers and proceedings therein at Gurny-House, and thereupon state and Report matter of fact unto you, by that day seven-night.

Your Sub-Committee not meeting, this Committee resumed the whole business, Febr. 27. and after full examination thereof, both parties being present, it appeared,

3.

Warrant it
Self,

That at the request of the said Casebeard, the Contractors made an Order to the Register Novemb. 26. 1647. to make forth, and ingross a Particular of the Royalties of the Hundred of Wells and Wells-Forum, with the Fairs of Priddy and Binegar, parcel of the Possessions of the late Bishoprick of Bath and Wells. And this was the

the only Warrant for any Particular, in reference to the said Corporation.

That the said Corporation (Novemb. 28. 1647.) gave Instructions to Casebeard in a Letter, to purchase (beside the former particulars) the Baylywick of the Town, the Court of Records, the 3 Weeken-Court and Leet, and Law-day for the Town; the three-Weeken Court, or Leet or Law-day for the Forum, the four Fairs in the Town, and the chief Rents (if incident to the Law-day) and Felons goods, and Clerk of the Market, and Return of Writs, and such Issues and Amercements as fall upon any Towns-man, whether in the Sessions at Wells, or in the County, granted by Letters Patents of Edw. 4. 2.
Letters of the Town.

But the Maior and Communalty of Wells did under the Seal of the Maioraltie, Dec. 4. 1647. Authorize the said Morgan, Casebeard, and one Cox to be their Agents with the Contractors for the Purchase of the Royalties and Liberties of the said Burrough, and of Wells-Forum, and VVells Hundred, with the Fairs of Binegar and Priddy. And Mr. Morgan confessed that this was all. 3.
Letter of Assembly.

That Casebeard indeed pretended that he had another Letter in Decemb. 1647. to buy more, viz. the Guild-Hall and Prison : but he produced none such. Nor were the Guild-hall and Prison then at all Returned in the Survey, and so could not be put into any Particular grounded thereupon. 4.

That upon the 15 of that Decemb. the said Casebeard did Contract in the behalf of the said Town, for the Royaltie of Wells, and Wells-Forum, the Baylywick of the Town and Forum of VVells, with all and singular the Fairs, Markets, Clerkship of the Market and profits thereof, and all other things to the said Baylywick pertaining. And also the Office of Stewardship of the Town of VVells, and all the profits and advantages thereunto belonging. This Contract takes in all Fairs, Markets, Clerkship of the Markets, Baylywick of the Hundred, and Stewardship, which were not warranted by the Contractors to be put into the Particular, nor desired by the Town in their last Instructions under Seal, nor are grounded upon the Survey. This Contract was Signed by Casbeard : nor was there any other made at all by the said Town. 5.
Contract.

It was confessed by Casbeard, that the said Corporation had not bought the rents of the Burrough, nor the Lot-Lead, nor any thing of the Mannor of VVells : That he, and one Couper had away the first Particular upon which he Contracted for the Town. That there was never more then one Contract made for the said Town. That the Particular, which (after the Purchase was ascertained) was offered to 6.
Notes of the Committee.

the Contractors to Sign, as a Warrant for the Trustees to receive the Purchase-mony, and for the Trustees to pass and Seal the Conveyance of the said Purchase, was not the same with the first, but drawn up by Mr. Thomas Salmon then Maior of VVells. And what is become of the first Particular, the said Casbeard knoweth not.

7. That the said last Particular doth contain much more then ever the said Town bought, or paid for, or then the Contractors ever intended to them to sell. According to which Particular, their Conveyance was drawn up and Sealed, and inrolled. which hath already occasioned much damage to the State, and may occasion much more, if not speedily prevented.

Order of Feb.
27.

The Committee finding so great a difference between the Certificate of the Contractors, and the last Particular and Conveyance made to the Town of VVells, did Order the said Contractors to certify more particularly what Royalties, Hereditaments, Liberties, and Appurtenances of the Possessions of the late Bishop of Bath and Wells they intended to sell unto the said Town, and for what sum. And likewise whether they did intend by any General words, after the first Contract signed by Casebeard, to sell them any more then was comprehended in the first Contract and Particular? And whether they sold any part of the Mannor of Wells unto them, and what part thereof?

Certif. of Mar.
7. 1648.

The Contractors certified, Mar. 7. last, That they sold to the said Town these particulars.

1. The Royalties of Wells and Wells Hundred: and the two Fairs of Binegar and Priddy at 30 s. per annum.
2. The Collecting of Post-fines and Amercements issuing out of the Exchequer, called the Green-wax, valued at 10 l. per annum.
3. The Leets, or Law-days, the three-Weeken Courts, and Court of Record, valued at 8 l. per annum.
4. All these were in possession, and amount to 19 l. 10 s. per annum, and sold at 20 years purchase.
5. The four Fairs in Wells, after 3 lives in being, valued at 5 l. 13 s. 4 d. at four years purchase.

which sums, at the rates abovesaid, make the total sum of the Purchase 412 l. 13 s. 4 d.

This was the just sum for which they Contracted according to the values in the Survey. And more then these things, the Contractors never intended to sell them any thing.

The said Contractors do further Certifie these Particulars wherein they were surprized: viz.

The two weekly Markets were unduly thrust into the sum of 5 l. 13 s. 4 d. at which the four Fairs in the Town alone, are valuable; which is not warranted by the Survey. And the Markets are valued at a considerable sum by themselves, for which nothing is paid in the Purchase.

They were persuaded by Casebeard, that the Baylywick contained no more but what is before expressed under the 25 l. 3 s. 4 d. and thereupon the Contractors put it into the Contract: whereas the Survey, beside all the particulars before rehearsed, afterwards mentions and values the Baylywick distinctly, and by it self, at 40 l. per annum, in reversion after three lives; which the Town hath gotten into their last Particular and Conveyance, paying nothing for it, and left 14 l. 6 s. 8 d. chargeable upon the Mannor for the Bayliffs fee, to be paid by the State notwithstanding: which must be reprised to the Purchaser of the Mannor.

They further say, that the Guild-Hall and Prison neither were in the first Particular, nor at all Contracted for. Nor were they at all returned or mentioned in the Survey whereupon that Particular was grounded: and so could not be intended to be sold unto them.

They say, they never intended to sell, nor did the Town at all desire to buy any part of the Mannor of Wells, or of any other Mannor. Only they intended to sell the Royalties of the Burrough and Hundred, so, that the Lord should not have ought to do with the Corporation, nor they with him, or any of his Tenants, by way of Jurisdiction, by vertue of their Purchase.

They Certifie that they never intended, by any words General or Special, to sell any thing to the said Town, more then was truly and really intended to be sold unto them in the first Contract.

The Town therefore have greatly abused and wronged the State both in Special words, as also in General words thrust into the last Particular.

By Special words, they carry these things which were never sold unto them: viz.

The whole Baylywick, valued after 3 lives in being at 40 l. per an. Two weekly Markets in the City of Wells, which are of good value.

The Guild-Hall and Prison, which have ever belonged to the Lord of the Mannor.

All VVaives and Strays, Deodands, and Felons Goods, &c. upon the Mannor, which were ever distinct from those of the Town and Hundred.

All Courts Baron, and Minery Courts, valued at 40 s. per an. All VVays and Streets, which have ever belonged to the Lord of the Mannor.

By

By General Words, they have taken into their last Particular and Conveyance.

All Royalties, Services, Franchises, Liberties, Priviledges, Immunities, Profits, Commodities, Advantages and Emoluments whatsoever, of what nature or quality soever, WITHIN the said City or Burrough of Wells, and WITHIN the said HUNDRED of Wells and VVells-Forum, or any part or parcel thereof, unto the late Bishop of Bath and VVells, or any other Bishop there, in right of the late Bishoprick of Bath and Wells, at any time within ten years before the beginning of the Parliament of England now assembled at Westminster, belonging or appertaining.

Under these General words, so unduly thrust into the last Particular (by vertue whereof their Counsel told you, that they conceive they have bought very much of the Mannor of Wells) may be comprehended, and hereafter claimed, as being within the Hundred of Wells,

1. The Royalties of the Lot-Lead, valued per ann. at 80 l.
2. The Royalties and Services of the Mannor of Wells, and rent both of the Mannor and Burrough, valued per ann. at 150 l.
3. All Waits, Herriots, Commons, Services of Tenants, &c. which are many and great.

To say nothing of the Mannor of Westbury, within the same Hundred also.

These things valued in the Surveys, amount per ann. to 250 l.

Which, after the rates of the Purchase made by the Town, comes to 5000 l.

By means whereof the Contractors have had the Mannor of Wells lying upon their hands for divers moneths. And the State hath all the while paid Interest for at least 5000 l. for that the said Contractors could not perfect a Particular of that Mannor, till this Obstruction be removed; which the Town refused to yeeld unto in an amicable way, although earnestly desired by the Contractors so to do.

This abuse the Contractors were unwilling to charge upon the Corporation it self, but first imputed only to their Agents. But, upon the Summons of the Town hither, they have openly owned and avowed it by their Counsel; and the imbezelling of the first Particular, and the drawing up of a new one by the said Maior, without Warrant (whence all this mischief to the State is risen) hath likewise been confessed by Casebeard, then appearing and speaking in the name of the whole Corporation.

Lastly, what means have been used to perswade them to rectifie this in a more private way, without troubling the House; and, how much they have slighted it, cannot be forgotten.

Edm. Harvy.

On

On the Backside of which Report was written by Mr Noel the Clerk Register to that Committee of Parliament, as followeth, by Order of the present Commissioners for removing Obstructions. June 27. 1655.

‘**T**his Report was delivered in by Colonel Harvie to the late Committee of Parliament for Removing Obstructions, mentioned in their Order of the fifth of April 1649. to be then read; and also to be read the eighth of May 1650. before the said Committee, without any alteration, so far as I can remember; and then, Ordered to be Reported to the Parliament, unless, &c. as in the said Order. And on the 20th instant offered to the Commissioners for removing Obstructions to be proceeded upon. Edw. Noel.

That he had Warrant for this Endorsement, (beside the Command of the present Commissioners) further appears by the Books of that Committee of Parliament kept by the said Mr Noel, wherein is entred this following Remembrance.

Die Jovis 5 April 1649.

‘Colonel Harvie delivered in his Report, concerning the Contractors and the Town of Wells, according to former Order of this Committee: which Report was read.

On which day, this Order also was made, and after sent to Wells.

Die Jovis 5 April 1649.

At the Committee of Parliament for removing Obstructions in the Sale of Bishops Lands.

‘**U**Pon hearing the business the 27 of February last, between the Town of Wells, and the Contractors for Sale of Bishops Lands; And, upon the Confession of John Casebeard, Agent for the Town then present, it appeared, That both the Contract signed by the said Casebeard, in behalf of the Town, and the last Particular drawn up without Warrant, by which the Contractors were surprised, and the State abused, do refer to the first Particular upon which the Contract was made; which first Particular was taken away by Casebeard and others, from the Contractors, and will not now be found. It is therefore Ordered that the said John Casebeard and Thomas Salmon the then Mayor of Wells, be forthwith summoned to attend this Committee within ten days after notice hereof, in Sir Edward Bruncards House in the old Palace at Westminster; And there produce the said first Particular upon which the said Contract was made, and to shew by what Deputation from the Town, and by what VVarrant, the last Particular afterwards offered to, and signed by the Contractors, was drawn up, and signed, after the first Contract made. And hereof they are not to fail. By

By this it is evident how unwilling the Committee of Parliament was to use extremity, in hastning a *Report* to the *House*; in that they would not so much as then Order the Report to be made to the Parliament, but only summoned two Agents of the Town to appear before themselves, to give Account of their miscarriages, thereby intending to awaken the Town to make satisfaction by a Reconveyance without further trouble.

John Casebeard and *Thomas Salmon* being served with the Order of Summons, Mr *Salmon* procured a *Letter of Attorney* from the Corporation, which ran thus:

Letter of At-
torney from
the Town, the
24. of April
1649.

‘**K** Now all men by these presents, That we the Mayor, Masters, and Burgeses of the City or Burrough of *Wells* in the County of *Somerſet*, by this present Writing indented, have constituted, ordained, and appointed; And by these presents do constitute, ordain and appoint, our Trusty and well beloved friends, *Thomas Salmon* one of the Magistrates of the said City or Burrough, and Justice of Peace within the same, *Robert Morgan* another Magistrate of the said City or Burrough, *William Smith* one of the capital Burgeses of the same City or Burrough, and *John Casebeard* Gent. or any three or two of them, to be our true and lawful Attorneys, for us, and in our names to appear before the honourable Committee for removing of Obstructions in the Sale of Bishops Lauds. And with them for us, and in our names to Answer to what shall be objected against us by the said Contractors of the said Lands, for the purchase of certain Royalties and Liberties contracted for with them, for, or concerning the said Purchase by us, or our Agent or Agents. As also to treat, compound, and finally to end and determine any Controversies, Suites, or demands arising, or which may arise by reason of the same Purchase, so far forth, and in as ample manner, as though we were personally present. Ratifying, confirming, and allowing all and whatsoever our said Attorneys, or any three or two of them shall do for us in the premises. * *In witness whereof*, We the said Mayor, Masters and Burgeses have hereunto set our common Seal the 24 day of *April*, in the year of our Lord God 1649. And to the other part thereof remaining with the said Mayor, Masters and Burgeses, the said *Thomas Salmon*, *Robert Morgan*, *William Smith*, and *John Casebeard* have set their Hands and Seals, the day and year above written.

* This Letter of Deputation was exhibited to the Doctor, and a Copy left with him, which was examined by two Witnesses with the Original, one of which was a publick Notary.

Upon this, Mr *Salmon* and Mr *Morgan* came to *London*. But, both the Contractors and the Committee of Parliament then told them, that now they must apply themselves to Doctor *Burges* Purchaser of the *Mannor of Wells*, and reconvey to him what they had so unduly gotten into their Conveyance, and which he had now both bought and paid for. And here began the first business between the Doctor, and that Corporation.

For Mr *Salmon* hereupon came to Dr *Burges*, and made agreement with

with him according to what had been agitated in, and declared by the said Committee of Parliament, and desired it might be put into writing, promising that he and Mr *Morgan* would sign it. When the Agreement was drawn up, Mr *Salmon*, and Mr *Morgan* came again to the Doctor, who read over the whole unto them, and no exception was taken to it. Only Mr *Morgan* desired that, whereas the Paper then read, mentioned a Deed to be afterwards sealed by the Corporation to Dr *Burges*, as it should be advised and prepared by his Counsel according to that present Agreement; that, before sealing, it might be perused by *Lisibone Long* then Esquire (now Knight and Recorder of London:) not, to alter the Agreement, but to satisfy the Corporation that the Deed was according to their then present Agreement. To this, the Doctor innocently (but improvidently) yielded; and so in the issue all came to Nothing. The Agreement was this:

Whereas the Mayor and Burgesses of the Burrough and City of Wells, in the County of *Somerset*, have bought sundry parcels of the possessions of the late Bishop of *Bath and Wells*, which are mentioned to be sold unto them by the Trustees for the Sale of Bishop Lands, or by five or more of them, in and by one Indenture bearing date the 22 day of *March, Anno Dom. 1647*. And whereas *Cornelius Burges* of London Doctor in Divinity, hath likewise bought sundry other parcels of the Possessions of the late Bishoprick of *Bath and Wells*, which are mentioned to be sold unto him by the said Trustees, or by five or more of them, in and by one other Indenture bearing date the 24 of *March 1648*. Now, for as much as by reason of some words and expressions in the said Indentures, sundry differences and Suites may possibly arise, if not timely prevented; for the prevention whereof, and for the better maintaining of a right understanding, peace, and amity between the said Parties, and for divers other good causes and special considerations, the said Mayor, Masters and Burgesses of *Wells* aforesaid, have by one Letter of Attorney or Deputation under the common Seal of the said Corporation (which Letter of Attorney or Deputation bears date the 14 of *April, Anno Dom. 1649*.) appointed, constituted and authorized *Robert Morgan*, Gent. and *Thomas Salmon*, Gent. two of the Masters of the said City or Burrough, together with some others therein named, That they or any two of them, should treat of, and conclude and determine all matters and things that now are, or hereafter might be in doubt or difference concerning the premises, or any of them; and that in the name and behalf of the said Mayor, Masters and Burgesses, who thereby binde themselves to allow, ratifie, and confirm, whatsoever their said Attorneys or Deputies, or any two of them, shall do in the premises; as by the said Letter of Attorney or Deputation (a Copy whereof is now left with the said Doctor *Burges*) appeareth. And therefore the said *Robert Morgan*, and *Thomas Salmon*, for and in behalf of the said Maior, Masters and Burgesses, and by vertue of the said

‘ said Letter of Atturmy and Deputation, after Treaty, and after mature
 ‘ advise with and full debate of their Counsel learned touching the pre-
 ‘ mises, do finally conclude and agree to and with the said *Cornelius Bur-*
 ‘ *ges*, That the said Maior, Masters and Burgeses of the said City or
 ‘ Burrough of *Wells* aforesaid, shall grant and assure unto him, his Heirs
 ‘ and Assigns, by good and sufficient Conveyance in Law under the Com-
 ‘ mon Seal of the said City and Corporation, in such wise as by the Coun-
 ‘ sel learned of the said Dr. *Burges* shall be devised and prepared, within
 ‘ ten dayes after the draught thereof shall be ingrossed (being first peru-
 ‘ sed and approved by *Lisibone Long* of *Lincolns-Inn* Esq; and tendred to
 ‘ the said Maior of the said City for the time being for that purpose. All
 ‘ and all manner of Interest, Right, and Title, which they have or pre-
 ‘ tend, or claim to have to, and in all and every the Particulars hereafter
 ‘ following viz.

Imprimis, ‘ All and every the Royalties of *Lot-Lead* upon the Forest
 ‘ of *Mendip*, and all Royalties, Courts, Perquisites of Courts, Possessions
 ‘ and Hereditaments, Rents, Fines, Heriots, Services, Eschetes, Waives,
 ‘ Strays, Wafts, Commons, Ways, Streets (except hereafter excepted)
 ‘ belonging to the Mannor of *Wells*, together with all Rights, members
 ‘ and appurtenances thereof, for ever.

Item, ‘ The free use of the *Guild-Hall* in *Wells* aforesaid, from time to
 ‘ time and at all times (except only such times wherein the said Maior,
 ‘ Masters and Burgeses shall make use of the same, for holding of their
 ‘ own Courts there) to keep and hold all Courts Baron, and other Courts
 ‘ of what kind soever, not herein and hereby excepted, in his own name,
 ‘ or in the name or name of his Heirs and Assigns, or any of them for ever;
 ‘ and by his or their Officers only, at his or their pleasure constituted and
 ‘ appointed, for ever. As also free ingress and egress for himself, his
 ‘ Heirs and Assigns, and for all Officers and persons resorting thither up-
 ‘ on those occasions. The said Dr. *Burges* his Heirs and Assigns for the
 ‘ time being, paying only one penny *per annum* for the same, upon the 29
 ‘ day of *September* for ever, it it be demanded.

Item, ‘ All other Fines, Suites, Services, Royalties, Courts, Perqui-
 ‘ sites of Courts, Immunities, Priviledges, Possessions and Hereditaments
 ‘ whatsoever lately enjoyed by any of the late Bishops of *Bath* and *Wells*,
 ‘ in right of the said Bishoprick within the Mannor or Burrough of *Wells*,
 ‘ or Forest of *Mendip*, or any of them, within ten yeeres next before the
 ‘ beginning of this present Parliament.

‘ E X C E P T I N G nevertheless, to the said Maior, Masters, and
 ‘ Burgeses, the Royalties of the City or Burrough of *Wells* aforesaid, and
 ‘ of the forreign fee Baylywick or Hundted of *Wells*, commonly called
 ‘ *Wells* and *Wells-Forum*, with the rights members and appurtenances
 ‘ thereof in the County of *Somerset*, together with the said Hundred.
 ‘ And also all Courts of Record, or Court or Courts of Pleas, Hundred
 ‘ Courts, views of Frank-pledge, and whatsoever to view of Frank-pledge
 ‘ appertaineth, Courts Leet and other Courts to be holden from three
 ‘ weeks

weeks to three weeks, from time to time within the said Burrough, or within the Hundred of *Wells* and *Wells-Forum* aforesaid, belonging to the said Burrough or Hundred.

And except also the Fines, Issues, and Amercements, Perquisites and Profits, as well at the said Courts hereby excepted, as at the Sessions of the Peace holden, or to be holden from time to time, or in the said City. And all other Fines, Forfeitures, Issues and Amercements at the Assizes or elsewhere, in the High Court of Chancery, the Court of Kings Bench, or Common-Pleas, or of the Exchequer, due and payable by any person or persons whatsoever. And also Excepted the Baylywick and Office of Bayliff of *Wells*, and of the Hundred of *WVells*, and of *WVells-Forum* aforesaid, and of the said Liberty of the said Bishop of *Bath* and *WVells* within the said County of *Somerset*. And also Excepted, all Fairs with their appurtenances, and all Markets holden and kept, and to be from time to time holden and kept within the said City or Burrough of *WVells*, or within the said Hundred of *WVells* and *WVells-Forum*, or any part thereof, heretofore or now holden there, with all profits and commodities thereto belonging. And also excepted, all Deodands, goods and chattels of Felons, Felons of themselves and Fugitives, Outlawed persons, and of persons put in exigent. And also excepted, the Office of the Clerk of the Market, and whatsoever to the said Office appertaineth; and the correction of the Assize of Bread, Ale, Beer, and other Victuals, and the trial of all weights and measures, together with all Fines and Forfeitures happening by reason of the same within the Liberty and Liberties aforesaid. And also the inheritance of the *Guild-Hall* and *Trifons*, and the way unto them, and the soyl thereof, as also all other the soyl, Streets and ways necessary and used for holding of the said Markets in the said City.

Item, It is likewise Agreed, that the before recited Indenture passed and sealed by the said Trustees as aforesaid, to the said Maior, Masters, and Burgesles, bearing date the 22 day of *March* 1647. shall be enrolled in the Court of Exchequer holden at *Westminster*, and there remain upon Record for ever.

To the due and full performance of this Agreement, and of every part thereof, we the said *Robert Morgan* and *Thomas Salmon* do in pursuance of the before mentioned Letters of Atturny or Deputation, bind our selves and the said Maior, Masters and Burgesles of the City or Burrough of *Wells* aforesaid, firmly by these presents. Witness our hands and Seals this 9 day of *May*, Anno Domini 1649.

Rob. Morgan.
Thomas Salmon.

Signed, Sealed and delivered
in presence of *He. Mintern.*
Jo. Mintern. *Ralph Gall.*

According hereunto a Deed was drawn up, which being first perused by *Robert Woolrich* of *Greys-Inn*, and *Matthew Hale* of *Lincolns-Inn* Esquires,

quires, and by them both attested under their hands to be agreeable to the foregoing *Agreement*, it was after tendred to several Maiors successive to each other at *Wells* to seal. But they *waved the Agreement*, resolving to hold what they had gotten; denying that they *knew of anything granted to them but what was really intended to be bought by them*, (and they are confident was really intended by the Honorable Contractors to be sold unto them, and therefore conceived it lawful for to improve their best endeavours for the enjoyment thereof. This, with much more, was sent in a Letter to the *Doctor*, in the name, and by the Order of the whole Society, Jan. 3. 1649. Signed by the Maior.

Order of Aug.
11. 1649.

Mean while the said Committee of Parliament, minding their promise, and finding the business to be so foul, and that the Town would not Seal any Reconveyance, made an Order the 11 of *August* 1649, to the Sergeant at Arms attending the Parliament, or his Deputy or Deputies, forthwith to apprehend the Body of John Casebeard, and to bring him up in safe custody, and him to keep in safe custody, until the said (first) Particular be brought in to the (Contractors) Registry, or that the said Casebeard do clear himself from any concealment or imbezelling of the same.

He was apprehended accordingly, but had a friend that first got him loose, not by Order but connivence, till the 14 of *September* 1651. Then he got his Liberty till the 15 of *November* following. Upon the 21 of which moneth, he alledging that the Town and Dr. Burges were agreed, he got an Order for his dismissal that day seven-night, if nothing were further alledged to continue his restraint. Howbeit he was not dismissed till the 12 of *December* following, witness this Order.

8 May 1650.

Order of Dec.
12. 1651.

IT is this day Ordered that John Casebeard be discharged from his restraint in the Custody of the Sergeant at Arms attending the Parliament, Mr. *Lisibone Long* having undertaken for his appearance before this Committee at any time in Term-time upon Summons.

But long before that, the same Committee of Parliament, finding the Corporation so pertinacious in holding what they had so unduly gotten, Ordered the former Report to be offered to the Parliament. The Order was this.

8 May 1650

As the Committee of Parliament for removing of Obstructions in the sale of Bishops Lands.

Order of May
8. 1650.
To Report to
the Parliament

Whereas the Report formerly made by Colonel *Harvy* touching the business of the Purchase made by the Maior, Masters and Burgesses of *Wells*, was this day read; upon Debate thereof, It is Ordered to be reported to the House as now it is. Unless the said Maior, Masters and Burgesses do before this day moneth, give satisfaction to a Sub-Committee touching the same. And it is Ordered that Col. *Jones*, Mr. *John Corbet*, Mr. Alderman *Allen*, and Colonel *Harvy*

'*Harvey*, be the said Sub-Committee; and they, or any three of them, be desired to receive what shall be offered by, or on the behalf of the said Mayor, Master and Burgeses of *Wells* therein, and report the same to this Committee.

All this notwithstanding, nothing was offered nor done herein by the Corporation. Sundry Overtures and Letters were addressed to them by the Doctor, for an end. Divers References were made, wherein, two several times, all businesses were agreed. But the Corporation resolved to part with nothing: for having made friends, who understood not the case, to stand by them therein, they encroached dayly upon the Doctors *Watts*, *Commons*, *Pounds*, *Estrays*, &c. threatening more. Especially since they so strongly engaged sundry of the Souldiery (who were set to keep peace, not to intermeddle in differences, or to become parties in them) by sweating three Officers of one Troop (who had not any foot of Land, or other Estate within that Corporation) *Burgeses* of their Town. Then, Belly-gods, and every rayling *Shimei* gladly made it their business to run up and down to Gentlemens Houses; yea, anywhither, where any good chear was to be had, to make the Doctor odious by false reports, where they supposed they could command belief of their confident tales. Yea, so far did some proud Wiselings of their Faction proceed, that if any friend were but in any neighbourly manner familiar with the Doctor, or invited any of his to their Houses, they would take occasion to quarrel them for entertaining their enemies: in so much, that scarce any person of quality durst to own the Doctor, or to come near his house, much more to own his cause. All which, the Doctor bore, with what patience he could; knowing, that nothing but Nettles and Bryers can be expected from Dung-hills.

That which remaineth, is a brief account of prosecuting that Report which was to have been made to the Parliament: but never could find opportunity to be reported there.

An Act passed, *Octob. 12. 1652.* to enable the present Commissioners for removing of *Obstructions* (among other things) to hear and determine all such reports of particular Cases, as by the late Committees of Parliament for *Obstructions* were ordered to be made to the then Parliament. Which Act, gives them that power that never was in the Committee of Parliament for *Obstructions*, or in any Court of Judicature, but only in the Parliament it self, to redress those abuses that otherwise, in an ordinary course of Justice, were not to be cured.

This Act, the Doctor for two or three years made no use of; in hope the Corporation would at length be drawn to do him right; because such as were discreet and moderate among them, on all occasions professed themselves very inclinable to peace. But they frustrated his expectation: for the more he bore, the more was laid on him; which opened his eyes to see that they who began upon trifles, would (when they saw their time) proceed to seise upon more; yea, upon all that their

general

general words might include. And this was no less, then all he had; except the *soyl* of the Mannor. For, they might on the same ground carry all his *Rents, Fines for Copyholds, and Leases, Forfeitures, Lot-Lead*, all his *Courts* of the Mannor; and, in a word, whatever else he could make one penny profit of. And all this, because it was *within the Hundred of Wells*, and late the *possession of the Bishop of Bath and Wells*, in right of his said *Bishoprick*.

The first difference began on their side, upon a small business: namely, their setting up Pens for Sheep at a *Fair*, against his Walls, in a place called *South-over*, which belonged always to him that kept the *Bishops Park*, purchased by Dr. *Burges*. Of this, when he had complained, the Corporation sent up a Certificate that they had made little of it, and that it should be restored, if it appeared to be the *Doctors* right. This being but a trifle, the *Doctor* passed it by, without farther contest.

After this, the Corporation claymed, and took fifty couple of wild Fowls due to the Bishop from the *Decoy-pool* near *Westbury*, because, within the *Hundred of Wells*. Which Fowls had been rated and sold to the *Doctor*, at 25 s. *per annum*. He being made acquainted therewith, forbad payment of any more to that Corporation: So also did, one Captain *Bagnal*, that after bought the Mannor of *Westbury*. The Corporation, or their Agent, hereupon complained to the Committee of Parliament for *Obstructions*, for wrong done to them in denying these Fowls. Their Petition was preferred in the year 1651. as followeth.

To the Honourable Committee for removing Obstructions
in the Sale of Bishop Lands.

*The humble Petition of the Mayor, Masters and Burgeses of Wells
in the County of Somerset.*

Humbly sheweth,

* 1647. **T**Has the Royalty of *Westbury* belonging to the late Bishop of Bath and Wells 1648 * was granted by the Trustees, amongst other things to your Petitioners, and enjoyed accordingly, until of late Dr *Burges*, Mr *Robert Bagnal*, and Mr *John Coussour*, by vertue of some general words, in several Grants of other things from the said Trustees, pretend a Title thereunto, and do accordingly interrupt the quiet enjoyment thereof. That within that Royalty there is a *Decoy-Poole*, which is of considerable worth to your Petitioners, and cannot admit of their trouble, without much prejudice.

Your Petitioners humbly pray your *Summons* against the said Dr *Burges* and *Robert Bagnal*, that the right thereof may be quieted and settled according to the truth thereof.

Cop.Ex. *Edw.Noel.*

And the said Petitioners shall pray, &c.

By this it appeareth, that however the Corporation had bought onely the

the Royalties of the Burrough and *Hundred of Wells*, they meant to grasp all within the *Hundred*, that had been the Bishops. This also the Doctor then passed over, without much struggling, albeit the Contractors Certified to that Committee of Parliament; and afterwards, to the *Commissioners for Obstructions*, that they had sold those *Wild fowls* to Doctor *Burges*.

Not long after, they began to claim some Chambers over the *Prison* parcel of the Bishops House, (and never used with the Guild-Hall or Prison) upon pretence of their purchase of the Guild-Hall and Prison: which in the Report before cited is denied; and, by the said Committee of Parliament, *Feb. 11. 1649.* declared to be within the Doctors Purchase, of which they ordered him possession.

After this, they seized his *Pound* in *Southover*, discharged his Heyward, set another in the room, and have ever since detained it, and all Waives and Estrays at any time brought thither; resolving to keep it, although it be upon part of the *Walt* of his Mannor, and was never possessed or used by the Bayliff of the Burrough, but by the Reeve of the Mannor, till they so seized it; as appears by many Depositions of record in the High Court of Chancery, which make it parcel of the Mannor.

Nay, they wanted not some, who gave out that the *Lot-Lead* upon *Minedeep*, which was rated and sold to the Doctor at *80 l. per annum*, belonged to that Corporation. Yea, one of the most moderate among them told the Doctor, that it was conceived that all Fines also imposed by his Mineral Juries on Offenders upon *Mendip*, that were awarded to him as Lord of that Liberty and Mannor, belonged to the Corporation, by vertue of their said Purchase. By all which it is evident, that they began with trifles, in hope the Doctor would not stand upon such poor things, which if they carryed, the way was open (when they saw opportunity) to proceed further, and to carry all the rest; which some among them did not forbear to threaten, and that loudly enough, as many persons of credit yet alive can testifie. And wherein soever he did but question them (not by Suites at Law, but by Discourse onely) they proclaimed him covetous, contentious, and one that claimed what was theirs, not his.

The Doctor now found it high time once more to endeavor to bring things to some issue and Conclusion in his life time, to prevent the unavoidable Oppressions, which otherwise would after his decease, in all probability light on his Family, who knew little of the Difference, and less, how to defend their Right against such Adversaries. He therefore resolved before he began any Suite at Law against the Corporation, to write once more to a Leader among them (and a chief instrument at first of all these differences) Mr *Thomas Salmon*, in hope that he being a Magistrate of the Town, and (in common repute) an honest man, would do his endeavour to put an end to all Controversies; the rather, because he was one of their Attorneys and Deputies to make and seal the Agreement

Agreement with the Doctor above recited. For the non-performance whereof, the Doctor had before called him and the rest into the Chancery; where, in their Answer, the Corporation denyed their Letter of Attorney, as to ending any differences with the Doctor; and *Morgan* and *Salmon*, in their Answers, pleaded they were surpris'd; which is a gross untruth. The Letter which the Doctor wrote, was this:

Sir,

‘Tis above five yeers sithence your self and Mr. *Robert Morgan* made a full Agreement with me in behalf of your Corporation, touching the differences between them and me in the matter of our Purchases. I tendred a draught of a Deed in pursuance thereof to Mr. *Smith* and several others of you, in the time of his Maioralty. I was then told, Mr. *Morgan* should carry it to Mr. *Lisibone Long* to peruse. After which, you would give me further Answer. Mr. *Long* had the perusal of it, put some notes in the Margin. Whereupon a Deed was ingrossed and tendred to Mr. *Rob. Morgan* in his last Maioralty. He promised to call a Chequer, and return their Answer. The issue was, the ceasing of proceedings in Chancery, and the renewing of a Reference to Mr. *Long* and Col. *Harvy*. They met divers times, and still the charge was born by me; with promise of satisfaction by Mr. *Morgan* of the moyety. But neither have I received my mony, nor any conclusion of the business. By means whereof both parties suffer more and more; nor are there wanting endeavors to make the breach wider.

‘Mr. *Morgan* is dead, and you and I be ancient men. It concerns me therefore to press on for an issue, while we continue alive, to prevent trouble and charge to posterity. I desire you therefore to procure the Deed to be Sealed, according to the Agreement, or let me know forthwith your final Answer, that I may advise with Counsel what is fittest to be done by, Sir,

Your loving friends,

From my House, Octob. 16. 1654.

C. Burges.

For my honoured friend Mr. Tho. Salmon

one of the Masters of the City of Wells: These.

They answered the 27. of that Moneth by their Town-Clerk *John Standsish* (as scorning, or ashamed to give it themselves) That the Doctors Letter had been offered and read to the Maior and the rest at their Chequer, to which they commanded him to give this Answer,

1.

‘That they were sorry that there was a difference at any time between him and them; supposing that what so was, was causlessly started by him without any wrong done, or intention thereof to be done to him by them; but that on the contrary he thereby intended their injury, by intruding on their proper Rights and interests; which likewise is supposed he very well knew.

2.

‘That they in their own concernments, are as displeased as he, that this frivolous and contentious jar hath received no full conclusion as yet; notwithstanding the many References, wherein the several References

* 250 l. per an.
is but a trifle
with them.

rees

Referrees have not failed on their parts to do the Offices of very loving friends with their unwearied pains and studies ; which what they have both done and said, might satisfie, if the restless humors of some men might once receive satisfaction.

That they directly know not, who was at the charge of the Referrees meetings, imagining that *Mr. Morgan* in his life would neither so much undervalue the Corporation or himself, as to be beholding to you as it were their Common Enemy, for half a meals meat. But, if he did, and made you a promise, you must look after it.

That as they were not Authors of the breach at first, so neither are they willing to imbrace any thing that may widen the same, if it may be possible to be closed. But if it may not be, they are resolved to defend themselves in their own propriety as well as they may.

That as he remembreth mortality in his Lines, so that he would put the same in ure in the passage of his life, in being content with his own, and not disturb the quiet of others with vexatious suits ; that their living Corporation and his present self, and future posterity may be, and continue friends.

That they intend *nothing less*, then really to perform what Conclusion either the joint Counsel, or Referrees shall indifferently consider of, or adjudge between them and him. But, whether there yet hath been an end made, and writings accordingly drawn up and ingrossed, or where such ingrossment is, they as yet know not. But promise that *Mr. Morgan's* Study should be forthwith searcht after it.

This was Declaration enough of their purposes to hold all that they had so fraudulently gotten into their Deed of Purchase. What will not such men speak of the Dr. to others, that can have the forehead to write thus to himself, to justify themselves in seizing upon what they never bought ; and, to charge him with intruding on their proper Rights and Interests, for demanding his own, as both the Contractors and Committee of Parliament had expressly declared long before ?

They confess several References, and justify the Referrees ; and tax the Doctor as not satisfied with what the Referrees had done : whereas the Agreements made, were sent down to themselves, and there stifled and buried : their Referree, *Sir Lisibone Long* having told the Doctors Referree, that the Corporation did not like those Agreements, as is before attested upon Oath. Let any man judge where those restless humors, that will not once receive satisfaction, are lodged.

And is it not a peece of great honesty and gallantry (well becoming such a Corporation that would by no means be undervalued) to charge the Doctor, to be their Common Enemy, and to put him to bear the whole charge of the Referrees meetings ; and then, to tell him, that if any promise were made for repayment, he might look after it : that is, where he could get it. Whereas the promise was made by one of themselves in behalf of all, in their own business, and, by their own appointment, Referred.

They indeed, in the close, deal plainly. For, in this answer of theirs,

Self. 6. They tell him, *That they intend NOTHING LESS then really to perform what Conclusion either the joint Counsel, or Referees shall indifferently consider of, or adjudge between them and him.* And verily, this only he hath found to be true all along. Therefore finding a necessity of it, he did commence a suit against some of their Officers and Agents, in *Hillary Term 1655.* in which he and the *Defendants* joyned issue: but he forbore the Trial, to see if by any fairer way he might at length reduce them to Reason.

But, before that time, even in the end of the year 1654. after he had received that answer last mentioned from the Town, he Petitioned the *Honorable Committee for removing Obstructions, to Hear and Determine the Report that was to have been made to the Parliament in this Cause,* according to the Power given them by that Act of Parliament, *Octob. 12. 1652. Summons* being granted the 9 of *May 1655.* they appeared, and were heard *June 20.* then next following. The said Report being read, was *Referred to Mr. Jukes, of Counsel for the Commonwealth with the Trustees for the sale of the said Lands,* to peruse the said Report, and all such papers, Orders, Affidavits, and Writings as should be offered unto him by parties concerned on either side, and to state the whole Case in difference, and make Report therein by the 4 of *July* then next. And for better stating of the Case, that *Edward Noel their Clerk,* should transmit unto the said Counsel, all such Papers, Orders, Affidavits, and Writings remaining with him touching the premises, as should be thought meet by the said parties concerned, or either of them.

But the Agents for the Corporation who were present at the making of this Order (perceiving that this course would not be for their advantage) went the very next day (unknown to the Doctor) to the Contractors for the sale of *Bishops Lands,* and delivered in these Lines:

Gentlemen,

W Hereas it hath been a long time questioned that the Corporation of Wells have gotten more into their Conveyance then really they purchased, It is now our desire in behalf of the said Corporation, to purchase and pay for what shall be made really appear is not already purchased by them. We confess the Burrough Rents is not yet purchased, amounting to 4 l. 17 s. per annum, of which we desire a Particular, as also of anything that is yet uncontracted for by the Corporation, as to the Baylywick, or anything else within our purchase, or within the Mannor of Wells unpurchased.

21 June 1655.

Your Servants,
John Casbeard, John Standish, David
Barret, Agents for the Corporation of Wells.

Allowed a Particular to be made out against Friday next, and Doctor Burges to be then heard.

Copia vera. Ex. per William Taylenre.

T. A.

Dr. Burges was not then heard, nor had any notice of this Warrant. Mr. Jukes having received the Commissioners Order of June 20. appointed the next Saturday being the 30 day of the same moneth, at two of the Clock, in the afternoon at his Chamber in the Inner-Temple, to peruse such Papers, Orders, Affidavits, and Writings as should be offered unto him by parties concerned on either side, in order to the stating of the whole Case in difference, according to the said Order of the Commissioners. Row. Jewkes.

27 Jun. 1655.

Upon the 30 of that month of June, both sides appeared. All papers and writings were brought in. Mr. Jewkes examined all : and afterwards Certified as followeth.

To the Right Honorable the Commissioners for removing of Obstructions in the sale of the late Bishops Lands.

According to your Order of the 20 of June last, made in the Cause upon the Petition of Cornelius Burges Doctor in Divinity, against the Maior, Masters and Burgeses of Wells, touching the matters therein mentioned, whereby it was referred to me to peruse the Report therein mentioned to have been made to the late Committee of Parliament, and all such Papers, Orders, Affidavits, and Writings as should be offered unto me by parties concerned on either side, and state the whole Case in difference, and make Report therein by the 4 of this moneth. And for the better stating of the Case, that Mr. Noel your Clerk, should transmit to me all such Papers, Affidavits and Writings remaining with him, touching the premises, as should be thought meet by the said Parties concerned, or either of them. I have perused all the Papers transmitted to me by Mr. Noel: and, amongst others, a Paper without either date or direction, but subscribed with the name of Edmund Harvey, and certified by Mr. Noel (by an indorsement thereupon, Dated 27 of June last, and subscribed with his name) to be the Report which was delivered in by Col. Harvey to the late Committee of Parliament for removing Obstructions mentioned in their Order of the 5 of April 1649. to be then read; and also read the 8 of May 1650. before the said Committee without any alteration, so far as he could remember; and then Ordered to be reported to the Parliament, unless, &c. as in that Order, and to have the 20 of that moneth offered it to you to be proceeded upon. And, upon perusal thereof, finding the Case therein, as I conceive, fully stated; and, that I might therein the better satisfy the parties, and Return to you the clearer account thereof, I did in the presence both of the said Doctor Burges, and of Mr. Dodington of Counsel with the Coporation of Wells, and of Mr. Casebeard and others in behalf of the said Coporation, read the said Report, and examine the same with the Certificates, Orders, and Letters therein mentioned. All which were produced, save only the Letter of Atturney,

and the Letter in *Decemb. 1647.* mentioned in the said Report, both which (though neither of them were produced) Mr. *Cafebeard* acknowledged: and, upon examination, it was agreed on both sides, that there were such Orders, Certificates and Letters as in that Report are mentioned.

And therefore finding this thus agreed on both sides, and finding this Case already stated by that Report to the late Committee for removing of Obstructions, &c. And humbly (with your favour) conceiving that the proceedings which were before them, and from them transmitted to you, are the grounds of your proceedings in this Cause; and there not appearing to me any evidence, proof, or other Cause to alter, or impeach that Report, I do, as to the matter of fact, humbly refer to that Report wherein it is already stated.

But there having been now produced to me by the said Doctor *Burges*, Copies attested under Mr. *Noel's* hand, several Orders not mentioned in the said Report, made to the said late Committee there, I do humbly Certifie them, as those which I conceive material for the further clearing of the matter of fact in this Cause, viz.

An Order of the fifth of *April, 1649.* which I took to be that of that date in the said Certificate of Mr. *Noel*, wherein it is mentioned, That upon the 27 of *February* last, between the Town of *Wells* and the Contractors for sale of Bishops Lands, and upon confession of John *Cafebeard* Agent for the said Town then present, it appeared that both the Contract signed by the said *Cafebeard* on the behalf of the said Town, and the last Particular drawn up without Warrant, by which the Contractors were surprised, and the State abused, do refer to the first Particular upon which the said Contract was made; which first Particular was taken away by *Cafebeard* and others from the Contractors, and would not then be found: it was Ordered that the said *Cafebeard* and *Thomas Salmon* the Mayor of *Wells*, should be forthwith summoned to attend that Committee within ten days after notice thereof, and then produce the said first Particular upon which the said Contract was made, &c. as thereby further appears.

And underneath this Copy is written thus:

Die Jovis 5 April. 1649.

Colonel *Harvy* delivered in his Report concerning the Contractors and the Town of *Wells*, according to former order of this Committee, which Report was read.

This is attested by Mr *Noel* to be a true Copy.

An Order of the eighth of *May 1650.* wherein it is mentioned, That the Report formerly made by Colonel *Harvy* touching the business of the purchase made by the Mayor, Masters and Burgesses of *Wells*, was that day read; and upon debate thereof, it was ordered to be reported to the House, as it then was; unless the Mayor, Masters and Burgesses of *Wells* did before that day moneth give satisfaction to a Sub-Committee touching the same. And it was ordered, That Colonel *Jones*, Mr. *John Corbett*,

Corbet, Alderman Allen, and Colonel Harvy, be the said Sub-Committee, and they, or any three of them, were desired to receive what should be offered, by or on the behalf of the said Mayor, Masters and Burgesses of Wells, and to report the same to that Committee.

All which, with reference to the said Report, Orders and Certificates (which, together with the rest of the Papers transmitted by Mr. Noel to me, are all herewith restored) and humbly submitted to your Judgments.

1 Jul. 1655.

Rom. Jewkes.

This Report being read the fourth of July 1655. before the said Commissioners for Obstructions, in presence of both parties; and afterwards fully debated, this following Order was made.

4 July 1655.

By the Commissioners for removing of Obstructions in the sale of Bishops Lands.

Upon reading of the Report of Mr. Jewkes made in pursuance of our Order of the 20 of June last, in the cause in difference between Dr. Burges and the Town of Wells, Thomas Salmon, and John Casebeard, and also the Report signed by Colonel Harvy, and hearing of Counsel and Parties on all sides, it is thought fit and ordered that it be referred to the Contractors for sale of the said Lands, and they desired to consider of the said matters in difference: and if they can, to conclude the business by sale, and conveying to Dr. Burges, what ever is contained in the said Report belonging to the Manor of Wells: and what belongs to the Hundred of Wells, to the Mayor and Burgesses of Wells, according to the said Report. And to recal the Conveyances. And if there be not a Submission to what the Contractors shall Order them, to certifie to us the party that shall so refuse.

On the sixth of July then instant, the Contractors sitting, Doctor Burges delivered to them the Order last foregoing. But the whole being now under a Reference, Doctor Burges first desired the Contractors to ask the Agents of Wells then present, if they had any Letter of Attorney empowering them to submit to a Reference? they answered, No. The Doctor then told them, it was in vain to proceed till they were impowred hereunto, for that the Town would stand to no Reference, if they liked not the Conclusion.

It was answered, That they would no doubt ere long obtain power to submit to it. The Doctor then desired all might be respited till that time. Only he gave in a Writing to testifie his submission, so far as the business was before the said Commissioners for Obstructions; saving to himself, the rest. This was not accepted. Upon this, both parties were dismissed sine die. No word was then spoken of the Towns intention to make a new purchase, nor of the Warrant made for a Particular, wherein it was ordered.

ordered, that the Doctor should be heard; which he was not; until they had made their second purchase.

In *August 1655*, the Town desired Mr. *Doddington*, their then Recorder, to treat with the Doctor about their differences. This Mr. *Doddington* accordingly did. The Doctor freely yielded to the Town (for he had never questioned it) *All Royalties of VVells, and Wells Hundred, the two Fairs of Priddy and Bineger, the collecting of all Post-fines, and amercements issuing out of the Exchequer, the Leets or Law-days, and three weeken Courts, and Courts of Record, the four Fairs in VVells after three lives in being, the Markets and Bayliffwick,*

The things he stood upon to have, were, All their claim to, and title and interest in any part of the Mannor of *Wells*, with the Rights, Members and Appurtenances; and himself and Tenants to be vvholly freed from all Jurisdiction of the Corporation: also the *Guild Hall and Prison*, vvhich ever belonged to the Lord of the Mannor, and vvas not really purchased by them, nor could be, it being not returned till after their Contract: all hawking, hunting, fishing, fowling, vvirhin his Mannor: all Pounds, Waives and Strayes there, all Deodands, Felons Goods, &c. happening on his Mannor, the Ways and Streets, and soyle thereof, &c. all Courts Baron, and Minery Courts within his Mannor.

Mr. *Doddington* asked if this were all? the Doctor answered, *Yea*: then said Mr. *Doddington*, We will have an end of these to your content: I will come again to *Wells* this Summer, and put a Conclusion to it. But he came not. Whereupon Doctor *Burges* waited upon him at *Lincolns-Inn*, about the midst of *October* following: and it was there agreed, that on *Friday* seven-night after, Mr. *Doddington* should come to the Doctors lodging, and make a full end of all.

But before that day, the Town sent up by Mr. *Standish* and *David Barret* a Letter of Atturny dated *Octob. 22. 1655.* to Authorize him, them and some others to answer all the Doctors complaints, and Objections: to buy the Burrough rents, Baylywick and whatever was then unfold: but not one word of submitting to the Contractors: taxing the Doctor with causless contests, &c. and justifying themselves in all that they had claimed and usurped.

Being come to *London*, they forthwith acquainted Mr. *Doddington* herewith; and no perswasions of his for ending of the *Controversies* in the way wherein he and the Doctor agreed, could prevail; but, before the Doctor knew any thing of their intentions of a new purchase, they Contracted, upon the 26 of *October* then instant (which was but the fourth day after the date of the Letter of Attorney) for the *Bayliffwick, the Guild Hall and Prison, the Burrough Rents, and seven Canonical Houses in Wells* (comprised within the Doctors first purchase; and which he often offered to pay for, had it been accepted on the terms contained in his first Contract) never giving him notice that he might have been heard, as they had been ordered to do, *June 21. 1655.*

This now began more Broyles and sharp Contentions on their parts, which

which were after tryed at the *Common Plea's Bar*, where the Doctor had fair Justice done him by the honourable Court, and Jurors. Howbeit, by the failer of some Witnesses who came not; but especially, by means of a desperate Oath made by one that was a party, who knew what he sware to be false, a Verdict and Judgment passed against the Doctor, and he was thereupon outed of those Houses, &c. But the Narration of the foul carriage of the Agents of that Corporation in that whole business, is not here intended. Onely this may be taken notice of, that whereas they were referred to a Trial at Law, by the Commissioners for Obstructions, *June 13. 1655.* upon the account of their said second purchase alone; they, at the Trial, produced onely their first Conveyance dated in *March 1647.* to prove their Title to the Chambers over the *Prison*; and, upon that, carried them (even after those rooms had been adjudged to the Doctor by the Committee of Parliament for Obstructions, in the year *1649.*) albeit they had not, till seven years after, indeed purchased the Prison under those Chambers.

With this Conquest, the Corporation, their Agents, Officers and Tenants vvere so sleight, that now they supposed they might do any thing against the Doctor; insomuch as it grew to a common speech, that whomever hath any trial vvith him, may be sure to carry it, be the Cause what it vvill. And upon this account, their Agents came upon his Land, took away a Mare (vvhich they might, vvith as good vvarrant, have robbed him of) upon an illegal Presentment, touching the repair of a Bridge (of vvhich he never heard word, till the time set for repairing, vvvas expired:) for vvhich Mare he took a Replevin, granted by their own Steward; but Mr *Mead* (the arch-incendiary between them and him) denied the execution of it, and caused the Mare to be kept in a secret place vvhere the Doctor might not come at her, nor know where she vvvas.

Doctor *Burges* vvaited a while, to see if the Corporation vvould right him. But they owned all; for having kept her from him, from *July 1657.* till *April 1658.* they then sold her. And, vvhen the Buyer (fearing belike, he might be questioned) craved a Certificate of his buying of her, This Certificate was given him.

Wells City in the County of Somerset.

TThese are to certifie all whom it may concern, that this present first day of April, 1658. *Lewes Love-lace* of *Cardiff* in the County of *Glamorgan* in *Wales* (as he saith) bought one white Mare, with an S. in the neer Buttock, which Mare did belong to this Corporation, and by the said Corporation sold unto the said Love-lace. In testimony whereof I have herewith set my Hand and Seal of Mayoralty the day and yeer aforesaid.

W. S. Mayor.

Not content with this, they endeavoured to draw in one *Amur*, a young fellow of very mean condition, that newly set up the Trade of a Carpenter, or mungrel-Joyners, to buy not onely the Guild-Hall and Prison,

Prison, but the Chambers or Rooms over the Prison. The Doctor hearing of it, sent for him, and let him know, it would not be safe for him to purchase things in Controversie : and that, albeit they had gotten it by a Trial at Law, yet he meant not so to give it over.

Amur thank't the Doctor for this friendly premonition, and promised not to purchase it. But afterwards he vvas so far drawn in, that he did purchase the said *Guild-Hall, Prison* and *Chambers* over it (as he hath since said) of the said Corporation, (who had forfeited that, and all the rest of their second purchase, above two years before.) And vwhen he had got Possession of it, he did so affront the Doctor, both in vvords and deeds, as (it is doubted) vvill in the issue fall too heaue upon himself. And for all, he pretends the Order and Warrant of the Corporation.

These affronts, seconded with perpetual scorns, derisions, and raylings, (especially by one *Bridgers*.) inforced him upon mature advice, to commence some Suites at Law against their Agents ; yet not one half so many, as their bold Town-Clerk, and Mr *Mead, more suo* (it being afternoo) averred to the *Commissioners for Obstructions*, in June 1658.

But the Doctor, remembering how much it still concerns him to seek peace and to pursue it, even vvhen it flies most from him, forbore a Tryal at Law for that present, and petitioned the *honourable Commissioners for removing of Obstructions*, to hear and determine all differences between him and that Corporation. Summons thereupon issuing, in May last, The Corporation, by their Agents and Counsel appeared before the said Commissioners, the 23 of June last, and were heard.

See the Order
June 23. 1658.

AT vvhich hearing, the Counsel for the Town alledged, ' That there had been a Tryal in the Case, at the Common Plea's Bar by consent; and upon that Tryal, the Town of *Wells* obtained a Verdict, Judgment, and Execution ; and that the said Tryal was (by like consent) to be final, as to the Tenements in question between them ; and produced a Rule of the said Court, to that purpose and effect ; and that the Petitioner hath diuers Actions depending at Law ; and therefore moved that the whole matter might be left to Law.

But, Doctor *Burges* being present, alledged that he was vvilling to stand to the judgements of the said Commissioners upon the vvhole matters in Difference, and to vvave proceedings at Law. And that his present Addresses to them, vvere, for Hearing and Determining of a Report Ordered by the Committee for removing Obstructions to have been Reported to the Parliament; and, by the Parliament Referred to their determination. That he insisted not upon the Title of those Houses vvhich by their Order vvvas referred to Law, and there tried ; unless of those Canonical Houses and Burrough Rents adjudged to him by former Orders of the said late Committee. And prayed a Confirmation of the Orders of the said late Committee of Parliament for preventing of further Suites, &c. Upon consideration of all which, and of what vvvas further offered on both sides, It vvvas Ordered, that the

(said)

the said Cause between the said Doctor *Burges*, and the Mayor, Masters, and Burgeses of *Wells*, their Agents and Tenants (should) be taken into Consideration on Friday, the 12 of *November* (then) next, in the forenoon, the said Dr *Burges* having given his Consent that all proceedings at Law concerning any matter to be heard by them (the Commissioners) should be stayed in the mean time, Mr *White* of Counsel for the Defendants being present taking notice of this Order.

But when this was Ordered, the Commissioners, at the same time advised, that all Differences might in the mean time, be, by some reference, ended by friends; Doctor *Burges* taking hint from thence, held it his duty to attempt this, yet once more, as well knowing that the determining of Controversies by consent, ever produceth a more firm and lasting peace, than a forced Conclusion. Therefore he made his Addressees to their greatest friend, the Lord *Disbrow*; and obtained of his Lordship, first a perusal of most of the Orders and Papers before recited, by which he might be fully enformed of the true State of the Cause; and then, a recommendation of it to friends in these words:

Whereas upon serious and Christian consideration, it is held fit and necessary that there be a firm and speedy Agreement made between the Mayor, Masters and Burgeses of *Wells* on the one part, and Doctor *Cornelius Burges* on the other part, touching ALL Controversies and Differences between them. To which end, the right honourable the Lord *Disbrow*, hath, out of his earnest and pious desire of the good of both parties, propounded, that *Robert Hunt*, *John Harrington*, *Francis Rell* and *John Buckland* Esquires, being persons of known abilities and integrity, should be joyntly desired, and indifferently chosen by the said Corporation and Dr *Burges*, to be Arbitrators to hear, and determine All matters in difference between the said Parties, either by themselves the said Arbitrators, or by the major part of them. To which the said Dr *Burges* hath very willingly assented: upon condition, That the Parties do mutually become bound in a Bond obligatory of two thousands pounds each to other, to submit unto, and to execute and perform the Award of the said Arbitrators, or of the major part of them, or of the Umpire chosen by them, before they enter upon debate of the Differences. And that such choyce of the said Umpire so made, be given in writing to each of the Parties, under the Hands and Seals of the said Arbitrators, at the beginning of the said Treaty, upon the sealing and delivery of the Bonds aforesaid by both Parties to each other, in presence of the said Arbitrators, at the first meeting: And also that the said Award, or Umpirage be made, and a Duplicate thereof written, Signed, Sealed, and delivered to each party concerned therein, before the first day of *October* next coming: And that the charge of all meetings of the said Arbitrators and Umpire hereabout, and of writing, and other incident expences, be equally born by the said Corporation and Dr *Burges*.

C. Burges.

White-Hall Jul. 1. 1658.

I desire a Concurrence in both parties to what is here propounded.

JOHN DISBROW.

L

This

This, by his Lordships direction was brought to him *Jul. 1.* of which he desired a Copy to be given by himself to the other side ; which was done, and delivered to them ere he Signed the Paper before set down : for he did not Sign it until *July 5.* So soon as the Doctor got home to *Wells*, he gave notice thereof to the Maior ; and shortly after, attended the Maior at his house for prosecuting of this course. Their Recorder and Town-Clerk, then present, said, that they told the Lord *Disbrow* when they received the Paper from him, that as touching the Houses by them recovered at Law (the trial being to be final, by consent) the Corporation could not refer them, because there was now no difference between them and the Doctor ; and therefore no Reason they should be referred : and that his Lordship thought so too.

To this the Doctor answered, that his Lordship spoke nothing to him of such an exception, when he Signed the Reference, after they had so spoken unto him. But he must insist upon those, as now the chief difference : because albeit the Trial was by consent, to be final ; yet this was only to assure the Court in which it was tried, that they should be no more troubled therewith : nor did he ever consent upon such an account, that if the Cause were carried by a false Oath (as that was) he should never seek justice elsewhere : it being very well known, that no consent or Order in one Court, can bind up any man from seeking remedy in another.

The Maior promised to acquaint his Brethren with it at a *Chequer*, which he accordingly did ; and having read the Paper of Reference to them Signed by the Lord *Disbrow*, they thereupon made this following Order.

At the Convocation held the 23. of July 1658. these were present.

Mr. William Smith Maior.	Mr. Thomas Salmon.	Mr. Thomas Nixon.
Mr. Rich. Thomas.	Mr. Richard Fryer.	Mr. Robert Hill.
Mr. Hugh Mersfield.	Mr. Jos. Gallington.	Mr. Robert Holt.
Mr. Sam. Read.	Mr. John Davidge.	Mr. Hen Baron.
Mr. Robert Hurman.		

‘ **A**T this meeting this House being acquainted with the transactions that passed this last Term between the Corporation and Doctor *Burges*, and of the interposition made by the Right Honourable John Lord *Disbrow*, and his mediation of peace, and of the proposals made by *Dr. Burges*, to Mr. Maior and our Recorder, since his coming into the Country, in pursuance of a Reference : It is agreed by all here present, that Mr. Maior, Mr. Recorder, Mr. Salmon, Mr. Mead, Mr. Gallington, and Mr. Standish be intreated to take upon them the burden of meeting and answering the demands of *Dr. Burges*, and of consulting together, what is to be done concerning the said Reference. And this House doth likewise agree, and they will assent unto whatsoever the said Gentlemen, or any five or four of them shall do in the premises. Provided that when they have brought things to a good perfection, that they at the next meeting of this House afterwards, being thereunto required, shall give an exact account of their proceedings.

A true Copy examined by me
John Standish T.C.
Upon

Upon this, Mr. Maior and Dr. *Burges* agreed upon a Letter to be drawn up, and Signed by them both, and after sent to each of the four Gentlemen before named in the Reference (together with a Copy thereof) which was sent by one of the Corporation and one of the Doctor's sons (going together) to every one of them, as followeth.

Honourable Sir,

It is the pious desire and endeavour of our Noble friend the Lord *Dubrow*, that all Differences between the Corporation of *Wells* and Doctor *Burges* should be friendly composed by your self and the other Gentlemen mentioned in the inclosed Paper, which is a true Copy of the writing which his Lordship hath Signed.

Our humble and joynt request to you is, that you will please to do us that office of piety and love, to meet the rest of the Gentlemen, at the Sign of the *Crown* in *Wells* upon *Thursday* in the next week, there to confer and agree upon the course of proceeding herein: and upon a further meeting afterwards to make us both happy, by perfecting that work which we on both sides cordially desire as the greatest obligation you can lay upon, Sir, Your humble Servants, most ready to serve you.
Wells, Jul. 28. 1658. C. Burges. Will. Smith.

On *Thursd. Aug. 5.* Mr. *Rolls*, Mr. *Buckland* and Mr. *Harrington* met accordingly; the Maior, Recorder, Town-Clerk, and Mr. *Thomas Mead* (Agents for the Town) were present. These Agents first pressed Dr. *Burges* to give in a Paper in writing, of the differences between him and the Town, before Bonds (which the Town-Clerk had drawn) were sealed, or the Umpire chosen: which the Dr. for a while refused, because the first thing to be done was the chusing of an Umpire, and Sealing the Bonds: but they still insisting upon giving in the Heads of the differences, the Dr. gave in these: The Differences concern,

1. All the incroachments and intrenchments of the Maior, Masters and Burgeses of Wells, and of their Agents and Instruments upon the Mannor of Wells, and what ever else of the late Possessions and Hereditaments of the late Bishop of Bath and Wells, that hath not truly and indeed been sold before the 16 day of March 1648. within the Mannor or Burrough of Wells, although passed by General words, by surprize, in any Conveyance to the said Maior, Masters and Burgeses.

2. Their second Purchase made in the year 1655.

3. The Cathedral Church in Wells and the Liberty thereof.

4. The Bishops Alms-Houses in Wells.

Aug. 5. 1658.

These are all the Heads of the differences I shall insist upon, unless the Corporation shall own any private Differences or snits between me and others.

C. Burges.

In the draught of the Bond that was to be sealed by the Corporation, no particular persons were named in it; but it runs thus: *We the Maior, Masters and Burgeses, &c.* Doctor *Burges* excepted against this, and desired their several names might be expressed in the Bond: for that a Bond being a personal security, could not after be put in suit against any person or persons, but such as are here named in it. This spent some time in

Dispute. But upon the motion of one of the Referrees, it was at length resolved, That the Bonds then drawn up should be sealed, *de bene esse*, till the Doctor should be satisfied by Counsel. And, if Counsel should declare such Bond to be invalid, the Town should seal another. Then Mr. *Harrington* was requested by the other two Gentlemen (who intended to return to their homes that night) to receive and keep the Bonds on both sides till the Doctor had at the approaching Assizes, or elsewhere, received satisfaction from his Counsel. The Bonds were to be sealed the next morning, and Mr. *Harrington* agreed to receive them.

On the same fifth of *August*, the Agents for the Town, when they had read the Differences given in by the Doctor, they excepted against the *second*, as being now no Difference, seeing it had been concluded by a Trial at Law, which by consent was to be final. The Doctor repeated what he had before spoken in private to the Maior in answer thereunto; adding this, That so soon as the Umpire was chosen, and the Bonds sealed, they might, if they pleased, urge this to the Referrees, without prejudice: for when these Gentlemen had heard the reasons on both sides, they would easily judge whether that were now a difference or not. And if they found cause to adjudge it to be none, they knew the Doctor would be fast enough bound to stand to that Declaration as part of the Award.

This at the present seemed to satisfy: but these things were so long in debate, that nothing more could be done that day, but onely to order the preparing of the Bonds against the next morning.

Friday being come, *August 6*. Mr. *Buckland* (who went not home on Thursday night as he had intended) and Mr. *Harrington* met again in the same place, expecting the sealing of the Bonds. But instead thereof, the Maior, the Town-Clerk, and two Gentlemen more of the Town, told the Referrees, That the Corporation had that morning met, and resolved, That neither now, nor hereafter would they become bound to the Doctor by their personal names: and that they were now also resolved, That their second purchase should not be referred as a Difference, but be excepted out of the Reference, in the Condition of the Bonds.

Dr. *Burges* then pressed the Agreement made the day before, for altering the Bond, if by Counsel it should be found to be of no force. And next, that the putting such an exception in the condition of the Bond, was not at all mentioned on the Thursday. And if they excepted that difference, it must needs argue their diffidence in the Gentlemen jointly chosen to arbitrate the whole; yea, that if before Bonds were sealed, the Corporation would thus limit and bind up their own Agents, there could not be any hope of their standing to any thing debated and determined by those Gentlemen.

Hereupon the Doctor drew up and delivered a second paper, at the same time, to the said Mr. *Buckland* and Mr. *Harrington*, in the presence of the other side; which Paper contained the same Heads of Differences he had given in the day before: whereunto he added the following Lines, *viz.*

‘Now so far as the Reference signed by the Lord *Disbrow*, July 5. 1658. (since he spake with the Agents for the Town) expresseth

ALL Differences, without exception; and, that not onely the Maior
 subscribing Letters to all the Arbitrators, but two several Acts of the
 Council or Convocation of the Corporation of *Wells* (the one held
 July 23 last, the other *August 2* instant) enabling several of their Mem-
 bers to treat, and to prosecute the Reference so signed, do not at all ex-
 cept any of the particulars above mentioned: I do absolutely refer all,
 without exception, to the said Arbitrators, or to the major part of them,
 or to the Umpire chosen by them, according to the said draught of Refe-
 rence signed by the Lord *Disbrow*: not waving the same in any thing;
 and do earnestly desire the Corporation to do the like; forasmuch as
 without this, there can be no firm peace.

C. Burges.

May 6. 1658.

The Agents for the Town pleaded that their hands were bound up, so
 that they could not yeild hereunto. Presently after, the Gentlemen
 brake up that meeting, and never more met about it. Whereupon the
 Doctor having drawn up the short Narrative foregoing in Writing of the
 Proceedings at that time, the Gentlemen were pleased to certifie the truth
 thereof thus.

This is the substance of what passed in the Reference between Dr.
Burges and the Corporation of *Wells*.

John Buckland.

John Harrington.

Mr. *Roll* did the like for so much as passed on the Thursday, *Aug. 5.*

This Reference (as all other before had done) coming to nothing, the
 Doctor was now necessitated to attend the honourable Commissioners
 for removing of Obstructions, for an *Hearing at Worcester House, Nov.*
12. according to their last Order. But some of the Commissioners be-
 ing then absent, the Hearing was put off until the 23 of *November*, which
 was no ordinary sitting day, but assigned on purpose for that only business,
 that nothing might intervene to interrupt them in the full hearing of it.

That day being come, both sides, with their Counsel, attended. The
 honourable Commissioners entered upon the Cause a little after three of
 clock, which held until past eight at night. And having fully heard both
 sides, and after debated the whole alone by themselves, they made this
 following Order.

25 Novemb. 1658.

By the Commissioners for removing Obstructions in the sale of Bishops Lands.

Whereas the Cause upon the Petition of *Cornelius Burges* Dr.
 in Divinity, Purchaser from the Trustees, for sale of Bi-
 shops Lands, of the Mannor of *Wells*, in the County of
Somerset, against the Maior, Masters and Burgeses of *Wells*, and their
 Agents *John Casebeard, John Standish, David Barret*, and others (upon
 a Report of the Case drawn up by the late Committee of Parliament
 for removing Obstructions, which by their Order of the eighth of *May*,
1650. was to have been reported to the then Parliament) came before
 us this day, to be heard and determined, (by Vertue of an Act of the
 said late Parliament, bearing date the 12 of *October 1652.* in this and
 the like Cases made and provided,) in the presence of the said Doctor
Burges and Mr. *Graves* his Counsel; and of Mr. *Maddison*, and Mr.
White, of Counsel with the said Maior, Masters and Burgeses; the mat-
 ter

ter of the said Petition being, to be relieved against the said Malor, Masters and Burgesses of *Wells* (amongst other things) for undue keeping from the Petitioner, by colour of a Conveyance made to them from the Trustees for sale of Bishops Lands, bearing date the 22 of *March* 1647. of divers things not contracted for by them, which did of right belong to the said Mannor of *Wells*, contracted for by the said Doctor *Burges*, and accordingly conveyed unto him by the said Trustees on the 24 of *March* 1648. And it now appearing unto us, upon reading the said Report of the said late Committee of Parliament, that as well by Certificates from the Contractors for sale of the said Lands, as upon examination of the matter, they found, That at the Request of the said *Cassebeard*, the said Contractors made an Order of the 26 of *November*, to the Register of the said Lands to make forth a Particular of the Royalties of the Burrough and Hundred of *Wells* and *Wells-Forum*, with the Fairs of *Priddy* and *Bineger*, parcel of the possessions of the late Bishop of *Bath* and *Wells*: and that this was the onely Warrant for any Particular in reference to the said Corporation: That the said Corporation, after their Contract made with them, the 15 of *December*, 1647. by their Agents surprised the said Contractors, and much wronged the State, by taking away of the first Particular, upon which the said Contract was made, and the drawing up of a new one, without Warrant, by one *Mr. Thomas Salmon*. And that this last Particular contains much more in it then the said Town bought and paid for, or then the said Contractors intended to sell to them. And that accordingly to the latter Particular, their Conveyance was drawn up, and Sealed. And that by the Special words of that Conveyance (amongst other things) they carry these following, which were never Contracted for, nor sold to them, (*viz.*) the whole Baylywick, valued after three lives in being at 40 *l. per annum*: which they now alledge they have since purchased: Two weekly Markets in the City of *Wells*, the Guild-Hall and Prison, which have ever belonged to the Lord of the Mannor: which said Guild-Hall and Prison, they also alledge they have since purchased. All VVaifes, Estrayes, Deodands, and Felons Goods upon the said Mannor. All Courts, Baron and Minery Courts, all VVays and Streets, which have ever belonged to the Lord of the said Mannor. And that by the general words, unduly thrust into the said Particular and Conveyance (of all Royalties, Services, Franchises, Liberties, Priviledges, Immunities, Profits, Commodities, Advantages and Emolument whatsoever, of what nature or quality soever, within the City or Burrough of *Wells* and *Wells Forum*, or any part or parcel thereof, to the late Bishop of *Bath* and *Wells* in right of his said Bishoprick of *Bath* and *Wells* belonging) may be comprehended, and hereafter claimed the Royalties of the Lot-Lead, the Royalties and Services of the Mannor of *Wells*, and Rents both of the Mannor and Burrough, & all Waifs, Heriots, Commons, Services of Tenants, &c. All which are valued in the Surveys to amount to 250 *l. per annum*.

Now, upon consideration had of the said Report, and of the Powers and Authority given us by the aforesaid Act of Parliament, of the 12 of *October* 1652. whereby we are Authorized and impowred to Hear and

• Determine all such Cases, as were by the said late Committee Ordered to be Reported to the Parliament ; and upon full and deliberate hearing of Counsel on both sides. We do Determine, and so Order, That the said Maior, Masters and Burgesses of *Wells* shall at, or before the 8 of January next ensuing, by such good Conveyance in the Law as by Rowland Jewke Esq; shall be advised, and with usual Covenants aswell against all incumbrances in Title, charge, or Estate, as for quiet and peaceable enjoyment, against the said Maior, Masters and Burgesses and their Successors, and all claiming by, from, or under them, or any of them, Convey and assure unto the said *Cor. Burges* his Heirs and Assigns, all the Right, Title, and Interest which they have, or claim to have by vertue or colour of their Deed of Purchase from the said Trustees, dated the 12 of Nov. 1647. in and to all Waives, Estrays, Deodands, Felons goods upon the said Mannor, as also all Courts Baron to the said Mannor of *Wells* belonging, and Minery Courts, all Ways and Streets, the Royalties of the *Lot-Lead*, the Royalties, Rents and Services of and belonging to the Mannor of *Wells*, and fitty couple of Wild-Fowl, formerly payable to the said late Bishop out of the *Decoy-Pool* within or neer the Mannor of *Westbury*. And all Heriots, Commons, Services of Tenants, together with all other Royalties, Services, Franchises, Liberties, Priviledges, Immunities, profits, commodities, advantages and emoluments whatsoever, of what nature or quality soever, of or belonging to the said Mannor, or any part or parcel thereof, to the only use and behoof of the said *Cor. Burges* his Heirs and Assigns for ever.

William Roberts. Jo. Berners. Ro. Aldworth. Henry Pyt.

On the same 25 of Nov. the said Commissioners made another Order, in another Difference between the Doctor and that Corporation : (in confirmation of a former Order of May 8. 1650. made therein by the forecited Committee of Parliament, upon a full hearing of that Case, in presence of both parties, and upon examination of the said Doctors conveyance) after hearing of both parties again, and of what could be alleadged by Counsel on behalf of the said Maior, Masters and Burgesses, That the said Maior, Masters and Burgesses do pay unto the said Dr. *Burges*, the Arrears of the said Rent behind and unpaid, and continue the payment of the said yearly Rent to the said Doctor *Burges*, according to the said former Order. And the said Dr. *Burges* be allowed Costs upon a Bill to be brought in upon Oath.

Since which time, Oath hath been made of serving these Orders upon the present Maior of *Wells*; and of sending to him a Deed ingrossed and attested by Mr. *Jewke* to have been drawn by his Advice, for the said Corporation to Seal ; and of a demand made of the said Rents and Arrears, on the 11 of Dec. last. All which the said Maior promised to impart to the rest of his Brethren, who thereupon appointed some of their Members to treat with the Dr. with whom a Treaty was had in a friendly manner, and great hope was conceived of a fair end of all. But when (Jan. 1.) the Dr. sent a second time for the said Rent and Arrears, the Maior answered, that he was commanded by the House (that is, the Corporation) to return this Answer, That the Corporation would pay neither rent, nor arrears : nor did they think fit to seal the said Conveyance.

The Dr. sent again to him, to tell him that he would not take that for a final answer, so that they had yet a full week more allowed by the Order for sealing the Deed: and therefore out of his earnest desire of peace, he prayed the Maior to call one Chequer more, and to consider better of that matter, before they returned their last Answer by which they meant to stand. The Maior did so. After which, several of them treated with the said Dr. again. But then, they insisted upon his Sealing of a Deed to them to confirm their second purchase of the *Barrough Rents, Baylywick, Guild-Hall and Prison, and the 7 Canonical Houses*, by them purchased, Ann. 1655.

All which, the Doctor had before petitioned the honourable Commissioners for Obstructions to hear and determine; and after, desired to Refer that whole business to four Gentlemen, chosen by both Parties to decide all Differences: they refused both, as being before determined by Law, as before is set forth. Nor were these things now before the said Commissioners; but, Referred to the Law. The Doctor further made it evident, that he should be very greatly damned, if by any Act of his (after he had sold those Houses) he should confirm an after purchase thereof to them; which the Town had unduly procured in a clandestine way, without acquainting him therewith before their Contract, as they were Ordered to do. And so they refuse to obey both the said Orders.

Which contempt they are animated unto, by their Agents Mr Thomas Mead, and John Standish, as also by their present Mayor, and such others of that Corporation, as they could draw to side with them. As may appear thus: Mr Mead and Standish, have had an allowance of 6 s. apeece *per diem*, for following this business against the Doctor; and, upon that account, gotten Grants of most things purchased by the said Corporation, to satisfy that salary; (albeit it be too well known, that at the same time, they came up to London in businesses of their own, which would have forced them to keep Terms here, although the Corporation had not employed them.) Now, they seeing that if the Town had submitted to those Orders, that submission would not only have put an end to their gaining by these Contentions, but perhaps cost them of several things granted to them by the Town: Therefore on the same 25 of Novemb. last, so soon as the honorable Commissioners had declared themselves, and Ordered what is before recited, the said Agents, before they went out of the Room where this Cause was heard and Ordered, were over-heard to say, that they would warrant, *That the Corporation of Wells should never obey those Orders.*

And the said Mead, after the first Treaty had with the Doctor in Wells, said further, in the hearing of divers persons, that the Doctor hoped the Town would do what the said Orders enjoined; but he would be deceived. And being then told, that if the Town obeyed not the Orders, course would be taken to send Messengers for such as refused; Mead replied, That before the Doctor could procure that, they would bring it into the Parliament, and there they would have men that should deal well enough with him; or words to that effect. And when the said Mead was again chosen at another Chequer to treat a second time with the Doctor, he refused, as displeased at any more Treaties for peace.

And the Mayor (upon an old grudge) while he made fair shews of desiring several Treaties, to make a peaceable Conclusion, dealt underhand with John Casebeard (often before mentioned) (to undertake the business again, as he had formerly done) against the Doctor, before he returned the Answer of the Corporation to the Doctor, as the Doctor hath been credibly told by one that will make Oath of it, if need require.

Legenda.

In marg. pag. 6. Dan. Ethic. Chr. l. 2. c. 15. p. 20. mar. r. Dun. l. 44. paratos. p. 24. mar. parag. 2. r. Ad. 4. 36, 37. p. 53. l. 3. r. valuable. p. 57. l. 15. r. Maior, Masters. p. 64. l. 44. much dis-

